

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

2015-2067

ELI LILLY AND COMPANY,

Plaintiff-Appellee

v.

TEVA PARENTERAL MEDICINES, INC., APP PHARMACEUTICALS LLC,
PLIVA HRVATSKA D.O.O., TEVA PHARMACEUTICALS USA, INC., and
BARR LABORATORIES, INC.

Defendants-Appellants

Appeal from the United States District Court for the Southern District
of Indiana case no. 1:10-cv-01376, Judge Tanya Walton Pratt

JOINT MOTION REGARDING BRIEFING SCHEDULE

I. INTRODUCTION

Pursuant to Federal Rules of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Defendants-Appellants Teva Parenteral Medicines, Inc., Pliva Hrvatska d.o.o., Teva Pharmaceuticals USA, Inc., Barr Laboratories, Inc., and APP Pharmaceuticals LLC (collectively, “Appellants”) and Plaintiff-Appellee Eli Lilly and Company (“Appellee”) respectfully move this Court to adopt the parties’ agreed-upon briefing schedule, which is set forth below:

Brief	Deadline
Appellants' Brief	December 23, 2015
Appellee's Brief	March 4, 2016
Reply Brief	March 18, 2016

No party has previously sought any extensions. This motion is accompanied by the Declaration Of Daryl L. Wiesen In Support Of Joint Motion Regarding Briefing Schedule (“Wiesen Declaration”).

II. GOOD CAUSE FOR THE EXTENSION

Good cause exists under Fed. R. App. P. 16(b) and 27(a)(2)(A). The proposed briefing schedule provides Appellants with a 29-day extension to file its appellate brief, and Appellee with a 30-day extension to file its brief. Without these extensions, Appellants' brief would be due on November 24, 2015, and Appellee's brief would be due on January 4, 2016. Attorneys responsible for drafting these briefs have been, and will continue to be, unavailable for significant portions of the current briefing periods due to court-imposed deadlines and trials in other matters and holidays. In particular, as described in the attached Wiesen Declaration, counsel for Appellants have trials in the second and fourth weeks of November that will not allow them a full opportunity to participate in preparing and reviewing the briefing in this appeal under the existing briefing

schedule. Appellee has agreed to Appellants' requested extension, and Appellants have agreed to a reciprocal extension of 30 days for Appellee's brief, including to avoid conflicts with the end-of-year holidays. The requested and jointly agreed briefing schedule will give the attorneys for all parties the opportunity to review the record and to participate fully in preparing and reviewing appellate briefing.

This request is made in good faith and not for the purpose of delay, or to perpetuate any other procedural advantage. No party has previously sought any extensions of time.

For these reasons, good cause exists to grant the requested agreed-upon briefing schedule.

III. THE PARTIES' MOTION SHOULD BE GRANTED

The parties' joint motion for the agreed-upon briefing schedule should be granted for the following reasons:

1. The periods of extension sought by the parties are short. Accordingly, the agreed-upon briefing schedule would not unduly delay resolution of this appeal.
2. The parties have shown good cause for the extension.
3. As the parties join in this request for the Court to adopt the briefing schedule, there will be no prejudice to any party as a result of granting the motion.

IV. CONCLUSION

For the foregoing reasons, the parties respectfully request that this Court grant their joint motion for the agreed-upon briefing schedule.

Dated: November 2, 2015

Respectfully submitted,

Teva Parenteral Medicines, Inc., APP
Pharmaceuticals LLC, Pliva Hrvatska d.o.o.,
Teva Pharmaceuticals USA, Inc., and Barr
Laboratories, Inc.

By their attorneys,

/s/ Daryl L. Wiesen

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