

FORM 26. Docketing Statement

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July 2020

# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

## DOCKETING STATEMENT

**Case Number:** 2024-1094

**Short Case Caption:** Teva Pharmaceuticals International GmbH v. Eli Lilly and Company

**Filing Party/Entity:** Plaintiffs-Appellants Teva Pharmaceuticals International GmbH, Teva Pharmaceuticals USA Inc.

**Instructions:** Complete each section or check the box if a section is intentionally blank or not applicable. Attach additional pages as needed. Refer to the court's Mediation Guidelines for filing requirements. An amended docketing statement is required for each new appeal or cross-appeal consolidated after first filing.

Case Origin	Originating Number	Type of Case
District of Massachusetts	1:18-cv-12029-ADB	Patent

Relief sought on appeal: ☐ None/Not Applicable

Reversal of the judgment in favor of Defendant-Appellee Eli Lilly and Company; reinstatement of the jury verdict; vacatur of the denial of Plaintiffs-Appellants' motion for post-trial relief as moot

Relief awarded below (if damages, specify): ☐ None/Not Applicable

The district court granted judgment as a matter of law in Defendant-Appellee Eli Lilly and Company's favor and determined that all asserted claims of U.S. Patent Nos. 8,856,046, 9,884,907, and 9,884,908 are invalid.

**Briefly describe the judgment/order appealed from:**

The district court granted in part Defendant-Appellee Eli Lilly and Company's motion for judgment as a matter of law and reversed the jury's verdict finding that Eli Lilly and Company had not proven claim 30 of U.S. Patent No. 8,856,045, claims 5 and 6 of U.S. Patent No. 9,884,907, and claims 5 and 6 of U.S. Patent No. 9,884,908 invalid for lack of written description or lack of enablement by clear and convincing evidence. The district court denied as moot Plaintiffs-Appellants' motion for post-trial relief.

Nature of judgment (select one):

Date of judgment: 9/28/23

☒ Final Judgment, 28 USC § 1295

☐ Rule 54(b)

☐ Interlocutory Order (specify type) \_\_\_\_\_

☐ Other (explain) \_\_\_\_\_

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Name and docket number of any related cases pending before this court, and the name of the writing judge if an opinion was issued. ☒ None/Not Applicable

Issues to be raised on appeal: ☐ None/Not Applicable

(1) Whether the district court erred in holding, after trial, that claim 30 of U.S. Patent No. 8,856,045, claims 5 and 6 of U.S. Patent No. 9,884,907, and claims 5 and 6 of U.S. Patent No. 9,884,908 were invalid for lack of written description.  
(2) Whether the district court erred in holding, after trial, that claim 30 of U.S. Patent No. 8,856,045, claims 5 and 6 of U.S. Patent No. 9,884,907, and claims 5 and 6 of U.S. Patent No. 9,884,908 were invalid for lack of enablement.

Have there been discussions with other parties relating to settlement of this case?

☒ Yes ☐ No

If "yes," when were the last such discussions?

- ☐ Before the case was filed below  
☐ During the pendency of the case below  
☒ Following the judgment/order appealed from

If "yes," were the settlement discussions mediated? ☐ Yes ☒ No

If they were mediated, by whom?

Do you believe that this case may be amenable to mediation? ☐ Yes ☒ No

Explain.

The parties were unable to come to a resolution in prior settlement discussions during the district-court proceedings, and it is unlikely that their positions have changed.

Provide any other information relevant to the inclusion of this case in the court's mediation program.

Date: 11/13/23 Signature: /s/ Kevin P. Martin  
Name: Kevin P. Martin