

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**CHAMBERS OF
KATHARINE S. HAYDEN
JUDGE**

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LETTER ORDER

RE: Pfizer, Inc. v. DRL; 02-CV-2829

Dear Counsel:

I have received Plaintiff Pfizer's request of January 7, 2003 for the entry of new findings supplementing December 20, 2002 Order that I entered in this case. The Order was entered three days after I rendered my oral decision on the record and reflects my decision dismissing Pfizer's patent infringement claim against Defendant Dr. Reddy.

In its proposed supplemental Order, Pfizer requests that I find Dr. Reddy infringed Pfizer's '909 Patent before February 25, 2003 by filing an application with the FDA for approval to sell its product prior to that date; that I make an additional finding that its '909 Patent is valid, even though the validity of the patent was not at issue in the case before me; and that I issue injunctive relief prohibiting Dr. Reddy from manufacturing and selling amlodipine maleate before February 26, 2003.

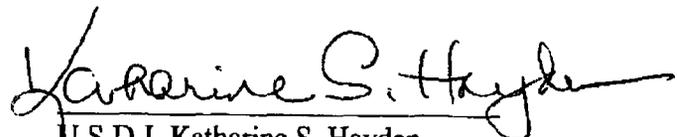
The recently decided Federal Circuit case, Warner-Lambert Company v. Apotex Corp., et al., 2003 WL 124307 *5 (Fed. Cir. (Ill.))(January 16, 2003), holds that merely filing a new drug application prior to patent expiration is not in itself an act of infringement unless the applicant intended to manufacture or sell its new product before the patent expired. In a May 1, 2002 letter to the FDA, Dr. Reddy expressly represented that it did not seek approval to manufacture or sell amlodipine maleate prior to February 25, 2003.

While Pfizer's proposed findings would provide a comfort level for Pfizer, they do not reflect the circumstances of this case and are at best superfluous and at worst an unwarranted exercise of this court's powers.

The Order of December 20, 2002 is modified to reflect that no further Order shall be entered supplementing the substantive ruling granting Dr. Reddy's motion to dismiss.

SO ORDERED.

Dated: 1/30/03


U.S.D.J. Katharine S. Hayden