

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2007-1194

PFIZER INC.,

Plaintiff-Appellee,

v.

MYLAN LABORATORIES, INC. and MYLAN PHARMACEUTICALS, INC.,

Defendants-Appellants.

ON MOTION

Before PROST, Circuit Judge.

### ORDER

Mylan Laboratories, Inc. and Mylan Pharmaceuticals, Inc. (Mylan) move for a stay, pending appeal, of the amended judgment of the United States District Court for the Western District of Pennsylvania that ordered that the effective date of any approval of Mylan's abbreviated new drug application "shall be a date which is not earlier than the date of expiration of the '303 patent" and that prohibited Mylan from making, using or selling the concerned drug. Pfizer Inc. opposes. Mylan replies. Mylan also moves for leave to "append" to its motion certain news articles that are not part of the district court record. Mylan submits a supplement to its motion to make arguments concerning this court's recent decision in Pfizer Inc. v. Apotex, Inc., --- F.3d ---, no. 2006-1261 (Fed. Cir. March 22, 2007), invalidating the asserted claims of the patent in this case. Pfizer responds.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) Pfizer and Mylan are each are directed to respond, no later than 10 a.m. on Monday, March 26, 2007, concerning how the invalidity determination affects the pediatric exclusivity period and the ANDA approval. Inter alia, the parties should address when and how the FDA will likely respond to the court's decision in no. 2006-1261. Each response should not exceed 15 pages.

(2) Mylan's motion for a stay, pending appeal, is held in abeyance pending receipt of the parties' responses to this order and the court's consideration of the papers submitted.

(3) The district court's order is temporarily stayed, pending this court's further consideration of the papers submitted.

MAR 23 2007

\_\_\_\_\_  
Date



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Sharon Prost  
Circuit Judge

cc: Richard G. Greco, Esq.  
David J. Harth, Esq.

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FILED  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

MAR 23 2007

IAN HORBALY  
CLERK