

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

PFIZER INC., PFIZER LIMITED and
PFIZER IRELAND PHARMACEUTICALS,

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.,

Defendant.

Civil Action No. 2:10 cv 128 RBS/FBS

STIPULATION AND ORDER REGARDING INFRINGEMENT

Plaintiffs Pfizer Inc., Pfizer Limited, and Pfizer Ireland Pharmaceuticals (collectively, "Pfizer" or "Plaintiffs") and Defendant Teva Pharmaceuticals USA, Inc. ("Defendant" or "Teva") through their attorneys, hereby stipulate to the following:

WHEREAS, Plaintiffs filed a Complaint (D.I. 1) charging Defendant with infringement of U.S. Patent No. 6,569,012 (the "'012 patent") in connection with Defendant's filing of Abbreviated New Drug Application ("ANDA") No. 77-342, and further charging that Defendant' manufacture, use, offer for sale, sale, marketing, distribution and/or importation of Defendant's ANDA Products (as defined in the Complaint) would infringe one or more claims of the '012 patent, and further charging that Defendant plans and intends to, and will, actively induce infringement of one or more claims of the '012 patent, and further charging that Defendant plans and intends to, and will, contribute to infringement of one or more claims of the '012 patent; and

WHEREAS, Plaintiffs subsequently informed Defendant that they are asserting infringement of only claims 25 and 26 of the '012 patent, and are not asserting infringement of claims 1–23 of the '012 patent; and

WHEREAS, Defendant filed an Answer (D.I. 19) and Amended Answer (D.I. 80) alleging that the manufacture, importation, use, offer for sale, or sale of the product that is the subject of ANDA No. 77-342 by Defendant would not infringe claims 25 and 26 of the '012 patent; and

WHEREAS, the parties wish to make clear that certain issues are not in dispute.

NOW, THEREFORE, the parties stipulate as follows:

1. Under the Court's claim construction, Teva's manufacture, use, offer for sale or sale of Teva's ANDA Products in the United States, or importation of Teva's ANDA Products into the United States, does not directly infringe asserted claim 25 or 26 of the '012 patent.

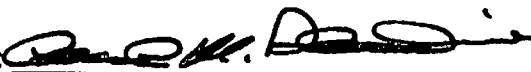
2. Under the Court's claim construction, Teva does not dispute that Teva's offer for sale or sale of Teva's ANDA Products in the United States (with Teva's proposed prescribing information for those products) prior to the expiration of the '012 patent will induce infringement of asserted claims 25 and 26 of the '012 patent.¹

3. Under the Court's claim construction, Teva does not dispute that Teva's offer for sale or sale of Teva's ANDA Products in the United States (with Teva's proposed prescribing

¹ Teva reserves the right to appeal the District Court's claim construction ruling and to request a determination of Teva's liability for infringement based on any modification of the District Court's claim construction.


information for those products) prior to the expiration of the '012 patent will contribute to infringement of asserted claims 25 and 26 of the '012 patent.²

DATED: June 15, 2011

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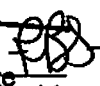
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² Teva reserves the right to appeal the District Court's claim construction ruling and to request a determination of Teva's liability for infringement based on any modification of the District Court's claim construction.

SO ORDERED this 15th day of June, 2011

/s/
Rebecca Beach Smith
United States District Judge 
The Honorable Rebecca Beach Smith
United States District Judge
Eastern District of Virginia