

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

ELI LILLY and COMPANY)	
)	
Plaintiff,)	TWP
)	Civil Action No. 1:08-cv-1547- WTL -TAB
vs.)	
)	
WOCKHARDT LIMITED, et al)	
)	
Defendants.)	
)	

**ORDER AND STIPULATION OF DISMISSAL BETWEEN PLAINTIFF
ELI LILLY & CO. AND DEFENDANT ACTAVIS ELIZABETH LLC**

In light of the responses of Plaintiff Eli Lilly & Company (“Lilly”) (D.I. 410) and Defendant Actavis Elizabeth LLC (“Actavis”) (D.I. 417) to the Court’s March 21, 2011 Order (D.I. 409), and pursuant to Federal Rule of Civil Procedure 41(a)(2), Lilly and Actavis hereby stipulate, and the Court ORDERS the following:

1. Actavis, including its officers, agents, and employees, shall not offer to sell or sell within the United States any of the duloxetine HCl oral capsules (20 mg, 30 mg, 60 mg) pursuant to ANDA No. 90-776, prior to the expiration of the full term of U.S. Patent No. 5,023,269 plus any patent term extensions, absent a final court decision from which no appeal can be or has been taken (except petition for writ of certiorari to the United States Supreme Court), holding the claims of the ’269 patent invalid and/or unenforceable.

2. With respect to U.S. Patent No. 5,023,269, Actavis shall convert, within five (5) business days of entry of this Order, the Paragraph IV certification contained in its ANDA to a

Paragraph III certification. Such Paragraph III certification, with respect to U.S. Patent No. 5,023,269, contained in Actavis's ANDA shall not be converted back to Paragraph IV certification by Actavis or its successors or assigns, absent a final court decision from which no appeal can be or has been taken (except petition for writ of certiorari to the United States Supreme Court), holding the claims of the '269 patent invalid and/or unenforceable.

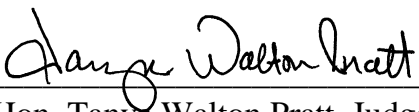
3. All claims asserted by Lilly against Actavis in this action (1:08-cv-1559) shall be, and hereby are, dismissed without prejudice.

4. All claims asserted by Actavis against Lilly in this action (1:08-cv-1559) shall be, and hereby are, dismissed without prejudice.

5. Lilly and Actavis shall each bear its own fees and costs, including any attorney or expert fees.

6. The Court shall retain jurisdiction to enforce the terms of this Order and Stipulation.

So ORDERED, this day: 04/27/2011.



Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

Date: April 26, 2011

Respectfully Submitted,

By: /s/ Sanya Sukduang

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