

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CLOSED

**BOEHRINGER INGELHEIM
INTERNATIONAL GMBH and
BOEHRINGER INGELHEIM
PHARMACEUTICALS, INC.,**

Plaintiffs,

v.

**MYLAN PHARMACEUTICALS INC.
and MYLAN INC.,**

Defendants.

Civil Action No. 09-0366 (FSH) (PS)

STIPULATED CONSENT JUDGMENT

THIS STIPULATION AND CONSENT JUDGMENT (“Consent Judgment”) is entered into by and between Plaintiffs Boehringer Ingelheim International GmbH and Boehringer Ingelheim Pharmaceuticals, Inc. (collectively “Boehringer”) and Defendants Mylan Pharmaceuticals, Inc. and Mylan Inc. (“Mylan”).

WHEREAS, Boehringer brought suit against Mylan asserting that Mylan’s submission to the United States Food and Drug Administration (“FDA”) of ANDA No. 90-764 for generic pramipexole dihydrochloride tablets in 0.75 mg strength infringed United States Patent No. 4,886,812 (“the ’812 patent”) (D.I. 1); Mylan filed a motion to dismiss Boehringer’s complaint based on the effect of the decision of the United States District Court for the District of Delaware in *Boehringer Ingelheim Int’l GmbH v. Barr Labs., Inc.*, 562 F. Supp. 2d 619 (D. Del. 2008) (“Del. Action”), *rev’d* 592 F.3d 1340 (Fed. Cir. 2010), the appeal from which was then pending (D.I. 21); and this Court granted Mylan’s motion and entered Final Judgment on May 12, 2009

without prejudice to further proceedings in the event of a reversal by the Federal Circuit in the Del. Action (D.I. 48);

WHEREAS, Boehringer filed a notice of appeal to the United States Court of Appeals for the Federal Circuit (D.I. 50), and such appeal was docketed as *Boehringer Ingelheim v. Mylan Pharma*, Appeal No. 2009-1402, but stayed pending disposition by the Federal Circuit of the appeal from the Del. Action;

WHEREAS, on August 2, 2010, the Federal Circuit in *Boehringer Ingelheim v. Mylan Pharma*, Appeal No. 2009-1402, issued its mandate granting Boehringer's motion, vacating the judgment of this Court, and remanding the case for further proceedings (D.I. 56);

WHEREAS, in the Del. Action, the Delaware district court entered Final Judgment on June 7, 2010, in favor of Boehringer and against Mylan on Boehringer's claims of infringement of the '812 patent with respect to ANDA No. 77-854 for generic pramipexole dihydrochloride tablets in 0.125, 0.25, 0.5, 1.0, and 1.5 mg dosage strengths, and on Mylan's counterclaims of noninfringement and invalidity of the '812 patent (Del. Action No. 05-700, D.I. 276);

WHEREAS, Boehringer and Mylan through their respective counsel, hereby agree to entry of this Consent Judgment;

NOW THEREFORE, IT IS HEREBY STIPULATED, ORDERED, AND ADJUDGED as follows:

1. Judgment is entered in favor of Boehringer and against Mylan on Boehringer's claims of infringement of the '812 patent with respect to ANDA No. 90-764 for generic pramipexole dihydrochloride tablets in 0.75 mg dosage strength.
2. Pursuant to 35 U.S.C. § 271(e)(4)(B), Mylan and its officers, agents, attorneys and employees, and those acting in concert with them, are hereby enjoined until and

including October 8, 2010 from engaging in the commercial manufacture, use, offer to sell, or sale within the United States, or importation into the United States of the product which is the subject of ANDA No. 90-764.

Dated: August 17, 2010

By: s/William J. Heller
William J. Heller
Jonathan M.H. Short
McCARTER & ENGLISH, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 622-4444

OF COUNSEL:
Bruce M. Wexler
Joseph M. O'Malley, Jr.
Eric W. Dittmann
Angela C. Ni
PAUL, HASTINGS, JANOFSKY &
WALKER LLP
75 East 55th Street
New York, NY 10022
(212) 318-6000

Attorneys for Plaintiffs

Dated: August 17, 2010

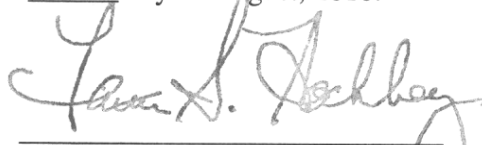
By: s/Arnold B. Calmann
Arnold B. Calmann
Jeffrey Soos
Katherine A. Escanlar
SAIBER LLC
One Gateway Center, 13th Floor
Newark, NJ 07102
(973) 622-3333

OF COUNSEL:
Shannon M. Bloodworth
PERKINS COIE LLP
607 14th Street, N.W., Suite 800
Washington, DC 20005
(202) 628-6600

Gabrielle E. Bina
PERKINS COIE LLP
One East Main Street, Suite 201
Madison, WI 53703
(608) 663-7460

Attorneys for Defendants

SO ORDERED this 18th day of August, 2010.


Hon. Faith S. Hochberg, U.S.D.J.