

**FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, LLP**
901 New York Avenue, N.W.
Washington, DC 20001

*Attorneys for Plaintiff
Eli Lilly and Company*

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

ELI LILLY AND COMPANY,)

Plaintiff,)

v.)

**Civil Action No. 07-3770
(DMC)(JAD)**

ACTAVIS ELIZABETH LLC,)

GLENMARK PHARMACEUTICALS)

INC., USA, SUN PHARMACEUTICAL)

INDUSTRIES LIMITED, SANDOZ INC.,)

MYLAN PHARMACEUTICALS INC.,)

APOTEX INC., AUROBINDO PHARMA)

LTD., TEVA PHARMACEUTICALS)

USA, INC., SYNTHON LABORATORIES,)

INC., ZYDUS PHARMACEUTICALS,)

USA, INC.,)

Defendants.)

**ELI LILLY AND COMPANY’S MOTION FOR (1) DEFERRAL OF ENTRY OF
JUDGMENT OR FOR AN ORDER TO SHOW CAUSE WITH TEMPORARY
RESTRAINTS AND (2) A TEMPORARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 62(c), and the authorities cited in the accompanying memorandum and declarations, and for the reasons set forth therein, Lilly respectfully moves the Court to temporarily enjoin Defendants from launching in the U.S. a generic atomoxetine hydrochloride version of Lilly's product Strattera[®] for only the period of time it takes for the Federal Circuit to decide Lilly's appeal of this Court's decision in the above-captioned matter.

Alternatively, if the Court denies Lilly's request for an injunction, Lilly respectfully moves the Court, pursuant to Federal Rule of Civil Procedure 62(c), and the authorities cited in the accompanying memorandum and declarations, and for the reasons set forth therein, to briefly enjoin Defendants from launching in the U.S. a generic atomoxetine product while Lilly appeals the denial of the injunction to the Federal Circuit pursuant to Fed. Cir. R. 8(a) and for the Federal Circuit to decide if an injunction is warranted through the appeal.

Lilly also hereby applies for an Order to Show Cause with Temporary Restraints to preserve the status quo pending resolution of this motion. Or, alternatively, Lilly requests that the Court defer entry of final judgment until it decides Lilly's request for a temporary injunction.

Dated: August 16, 2010

Respectfully submitted,

Charles E. Lipsey
L. Scott Burwell
Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
Two Freedom Square, 1955 Freedom Drive
Reston, VA 20190-5675
Tel: (571) 203-2700
Fax: (202) 408-4400

Robert D. Bajefsky
Laura P. Masurovsky
M. Andrew Holtman
Krista E. Bianco
Finnegan, Henderson, Farabow
Garrett & Dunner, LLP
901 New York Avenue, N.W.
Washington, DC 20001-4413
Tel: (202) 408-4000
Fax: (202) 408-4400

Jennifer S. Swan
Finnegan, Henderson, Farabow
Garrett & Dunner, LLP
Stanford Research Park
3300 Hillview Avenue
Palo Alto, CA 94304-1203
Tel: (650) 849-6600
Fax: (650) 849-6666

By: /s/ M. Andrew Holtman

ELI LILLY AND COMPANY

Mark J. Stewart
Tonya L. Combs
Eli Lilly and Company
Lilly Corporate Center
Indianapolis, IN 46285
Tel: (317) 276-2000
Fax: (317) 277-6534

John F. Brenner
Pepper Hamilton LLP
Suite 400
301 Carnegie Center
Princeton, NJ 08543-5276
Tel: (609) 452-0808
Fax: (609) 452-1147

Attorneys for Plaintiff Eli Lilly and Company