

NOTE: This disposition is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**BAYER HEALTHCARE PHARMACEUTICALS,  
INC. AND BAYER SCHERING PHARMA AG,**  
*Plaintiffs-Appellees,*

v.

**WATSON PHARMACEUTICALS, INC.  
AND WATSON LABORATORIES, INC.,**  
*Defendants-Appellants,*

AND

**SANDOZ INC.,**  
*Defendant-Appellant.*

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2012-1397, -1398, -1400

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Appeals from the United States District Court for  
the District of Nevada in Nos. 07-CV-1472 and 08-CV-  
0995, Judge Kent J. Dawson.

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**BAYER SCHERING PHARMA AG AND  
BAYER HEALTHCARE PHARMACEUTICALS,  
INC.,**  
*Plaintiffs-Appellees,*

v.

**LUPIN, LTD. AND LUPIN PHARMACEUTICALS,  
INC.,**  
*Defendants-Appellants.*

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2012-1424

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Appeal from the United States District Court for the District of Nevada in no. 10-CV-1166, Judge Kent J. Dawson.

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**ON PETITION FOR REHEARING AND  
REHEARING EN BANC**

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Before RADER, *Chief Judge*, NEWMAN, LOURIE,  
SCHALL,<sup>1</sup> DYK, PROST, MOORE, REYNA, WALLACH, and  
TARANTO, *Circuit Judges*.<sup>2</sup>

PER CURIAM.

REYNA, *Circuit Judge*, dissents without opinion from the denial of the petition for rehearing en banc.

**O R D E R**

A combined petition for rehearing and rehearing en banc was filed by Plaintiffs-Appellees Bayer, and a response thereto was invited by the court and filed by Defendants-Appellants. The petition for rehearing was considered by the panel that heard the appeals, and thereafter the petition for rehearing en banc and the response were referred to the circuit judges who are authorized to request a poll of whether to rehear the appeals en banc. A poll was requested, taken, and failed.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The petition of Plaintiffs-Appellees for panel rehearing is denied.
- (2) The petition of Plaintiffs-Appellees for rehearing en banc is denied.
- (3) The mandate of the court will issue on August 19, 2013.

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<sup>1</sup> Judge Schall participated in only the decision on panel rehearing.

<sup>2</sup> Judge O'Malley did not participate.

FOR THE COURT

August 12, 2013  
Date

/s/ Daniel E. O'Toole  
Daniel E. O'Toole  
Clerk