

NOTE: This order is nonprecedential.

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

**ENDO PHARMACEUTICALS INC., GRUNENTHAL
GMBH,**
Plaintiffs-Cross-Appellants

v.

**TEVA PHARMACEUTICALS USA, INC., ACTAVIS
INC., ACTAVIS SOUTH ATLANTIC LLC, WATSON
PHARMACEUTICALS, INC., AMNEAL
PHARMACEUTICALS OF NEW YORK, LLC,
ROXANE LABORATORIES, INC., AMNEAL
PHARMACEUTICALS, LLC, THORX
LABORATORIES, INC., BARR LABORATORIES,
INC., RANBAXY, INC., RANBAXY
PHARMACEUTICALS, INC., SUN
PHARMACEUTICAL INDUSTRIES, LTD., IMPAX
LABORATORIES, INC.,**
Defendants-Appellants

2015-2021, 2015-2022, 2015-2023, 2015-2024, 2015-2025,
2015-2026, 2015-2028, 2015-2031, 2015-2033, 2015-2034,
2015-2035, 2015-2041, 2015-2042, 2015-2046, 2015-2047,
2015-2049, 2015-2059, 2015-2060, 2016-1025, 2016-1060,
2016-1117, 2016-1118

Appeals from the United States District Court for the
Southern District of New York in Nos. 1:12-cv-08060-
TPG-GWG, 1:12-cv-08115-TPG-GWG, 1:12-cv-08317-TPG-

GWG, 1:12-cv-08985-TPG-GWG, 1:13-cv-00435-TPG-GWG, 1:13-cv-00436-TPG-GWG, 1:13-cv-03288-TPG, 1:13-cv-04343-TPG, 1:13-cv-08597-TPG, Senior Judge Thomas P. Griesa.

ON MOTION

PER CURIAM.

O R D E R

In this action, Grünenthal GmbH appealed the U.S. District Court for the Southern District of New York's judgments related to Grünenthal's U.S. Patent Nos. 8,114,383 and 8,309,060. We initially granted Grünenthal's motion to stay its appeals, pending two specific actions by the U.S. Food and Drug Administration that Grünenthal argued were likely to moot its appeals. *See generally* Docket Nos. 197, 203, 230. Grünenthal then moved to extend the stay, reasoning that neither of those actions had materialized. *See generally* Docket No. 230. We exercised our discretion to lift the stay, then dismissed Grünenthal's appeals without prejudice. *See Endo Pharm. Inc. v. Teva Pharm. USA, Inc.*, —F. App'x—, No. 2015-2021, 2018 WL 2230923, at *1 n.1 (Fed. Cir. May 16, 2018).

Grünenthal now moves to: (1) vacate the district court's judgments deciding issues related to its two patents; and (2) remand to the court with instructions to dismiss all claims and defenses related to those patents consistent with vacatur. *See generally* Docket No. 233. Grünenthal also conditionally moves to extend the deadline to file its petition for panel rehearing and/or rehearing en banc. *See generally* Docket Nos. 239, 242. Kashiv Pharma, LLC, not a party to the appeals, moves for leave

to intervene to oppose Grünenthal's motion for vacatur. *See generally* Docket No. 237.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) We vacate our dismissal of Grünenthal's appeals and reinstate them.
- (2) We remand the appeals to the district court for the limited purpose of its consideration of Grünenthal's motion for vacatur. We retain jurisdiction so that any of the parties may seek appellate review by notifying the Clerk of the Court within thirty days of entry of the district court's decision on remand. Grünenthal's appeals are held in abeyance pending the resolution of its motion for vacatur by the district court.
- (3) We deny Grünenthal's conditional motions and Kashiv's motion.

FOR THE COURT

June 29, 2018

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner
Clerk of Court