

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2007-1522

SANOFI-AVENTIS, SANOFI-SYNTHELABO, INC., and
BRISTOL-MYERS SQUIBB SANOFI
PHARMACEUTICALS HOLDING PARTNERSHIP,

Plaintiffs-Appellees,

v.

COBALT PHARMACEUTICALS, INC.,

Defendant-Appellant.

Appeal from the United States District Court for the Southern District of
New York in case no. 05-CV-08055, Judge Sidney H. Stein.

ON MOTION

Before MAYER, CLEVINGER, and RADER, Circuit Judge.

MAYER, Circuit Judge.

ORDER

Sanofi-Aventis et al. (Sanofi) move for panel review and reconsideration pursuant to Fed. Cir. R. 27(l) of the court's July 21, 2009 order denying Sanofi's motion for issuance of the mandate. Cobalt Pharmaceuticals, Inc. responds and states that it "does not oppose, and hereby consents, to entry of judgment in this appeal in accordance with and based on this Court's decision in Sanofi-Synthelabo v. Apotex Inc., 2007-1438, with each side to bear its own costs."

This appeal was stayed pending the court's disposition of Sanofi v. Apotex, 2007-1438. In Apotex, the court affirmed the district court's ruling that Sanofi's patent was not invalid. Because the parties now agree that the judgment of the district court in this case should be summarily affirmed, the court grants the motion for reconsideration.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion for panel review is granted.
- (2) The motion for reconsideration is granted. The judgment of the United States District Court for the Southern District of New York is summarily affirmed and the mandate is issued herewith.
- (3) Each side shall bear its own costs.

FOR THE COURT

NOV 09 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Evan R. Chesler, Esq.
William A. Rakoczy, Esq.

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ISSUED AS A MANDATE: NOV 09 2009

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

NOV 09 2009

JAN HORBALY
CLERK