

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2007-1194

PFIZER INC.,

Plaintiff-Appellee,

v.

MYLAN LABORATORIES, INC. and MYLAN PHARMACEUTICALS, INC.,

Defendants-Appellants.

ON MOTION

Before BRYSON, Circuit Judge, FRIEDMAN, Senior Circuit Judge, and PROST, Circuit Judge.

PROST, Circuit Judge.

### ORDER

Mylan Laboratories, Inc. and Mylan Pharmaceuticals, Inc. (Mylan) move for a stay, pending appeal, of the amended judgment of the United States District Court for the Western District of Pennsylvania that ordered that the effective date of any approval of Mylan's abbreviated new drug application shall be a date not earlier than the date of expiration of the patent. Pfizer Inc. *opposes*. Mylan *replies*. Mylan also moves for leave to "append" to its motion certain news articles that are not part of the district court record. The parties also submit responses to the court's March 23, 2007 order. Pfizer moves to lift the court's temporary stay of the district court's judgment and order.

To obtain a stay, pending appeal, a movant must establish a strong likelihood of success on the merits or, failing that, nonetheless demonstrate a substantial case on the merits provided that the harm factors militate in its favor. Hilton v. Braunskill, 481 U.S.

770, 778 (1987). In deciding whether to grant a stay, pending appeal, this court "assesses the movant's chances of success on the merits and weighs the equities as they affect the parties and the public." E. I. du Pont de Nemours & Co. v. Phillips Petroleum Co., 835 F.2d 277, 278 (Fed. Cir. 1987). See also Standard Havens Prods. v. Gencor Indus., 897 F.2d 511 (Fed. Cir. 1990).

Upon consideration thereof,

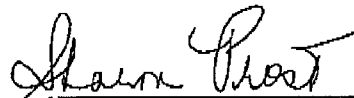
IT IS ORDERED THAT:

- (1) Mylan's motion for a stay, pending appeal, is granted.
- (2) Mylan's motion for leave to append is denied.
- (3) Pfizer's motion to lift the temporary stay is denied.

FOR THE COURT

**MAR 26 2007**

\_\_\_\_\_  
Date



\_\_\_\_\_  
Sharon Prost  
Circuit Judge

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

**MAR 26 2007**

**JAN HORBALY**  
**CLERK**

cc: Richard G. Greco, Esq.  
David J. Harth, Esq.

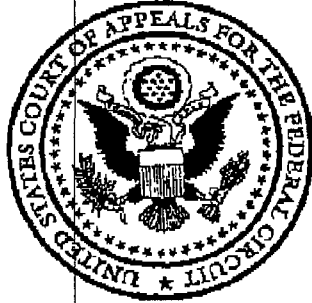
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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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