IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANOFI-AVENTIS U.S. LLC and SANOFI-AVENTIS DEUTSCHLAND GMBH,	)	
Plaintiffs,	)	
	)	C.A. No. _____
v.	)	
ELI LILLY AND COMPANY,	)	
Defendant.	)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Sanofi-Aventis U.S. LLC ("Sanofi U.S.") and Sanofi-Aventis Deutschland GmbH ("Sanofi GmbH") (collectively, "Plaintiffs" or "Sanofi"), by and through their attorneys, for their complaint against Eli Lilly and Company ("Eli Lilly"), hereby allege as follows:

THE PARTIES

1. Plaintiff Sanofi U.S. is a Delaware limited liability corporation with its principal place of business located at 55 Corporate Drive, Bridgewater, New Jersey 08807.

2. Plaintiff Sanofi GmbH is a German corporation, with its principal place of business located at Industriepark Hoechst, Bldg. K607, Frankfurt Am Main, Germany D-65926.

3. On information and belief, Defendant Eli Lilly is an Indiana corporation with its principal place of business located at Lilly Corporate Center, Indianapolis, Indiana 46285.

4. On information and belief, Eli Lilly conducts business operations in the United States, including in the State of Delaware.

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JURISDICTION AND VENUE

5. This is an action for patent infringement under the Patent Laws of the United States, Title 35, United States Code. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

6. This Court has personal jurisdiction over Eli Lilly because, *inter alia*, Eli Lilly maintains continuous and systematic contacts with this judicial district. Either directly, or through its subsidiaries, agents, and/or affiliates, Eli Lilly has conducted and continues to conduct business in this judicial district, including, upon information and belief, by manufacturing, marketing, and selling drug products throughout the United States and in the District of Delaware. This Court has personal jurisdiction over Eli Lilly for the additional reasons set forth below.

7. Eli Lilly is registered to do business in the State of Delaware.

8. National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904 serves as Eli Lilly's Registered Agent in the State of Delaware.

9. Eli Lilly has previously elected to avail itself of the benefits of litigating its patent disputes in the District of Delaware. *See, e.g., Eli Lilly & Co. v. Teva Parenteral Medicines, Inc.*, C.A. No. 08-335-GMS.

10. Venue is proper in this court pursuant to 28 U.S.C. §§ 1391(b), (c), and 1400(b).

PATENTS-IN-SUIT

11. On October 15, 2013, United States Patent No. 8,556,864 ("the '864 Patent"), entitled "Drive Mechanisms Suitable for Use in Drug Delivery Devices," was duly and legally issued by the United States Patent and Trademark Office ("PTO"). A true and copy of the '864 Patent is attached as Exhibit A to this Complaint.

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12. On December 10, 2013, United States Patent No. 8,603,044 ("the '044 Patent"), entitled "Pen-Type Injector," was duly and legally issued by the PTO. A true and copy of the '044 Patent is attached as Exhibit B to this Complaint.

13. On January 13, 2009, United States Patent No. 7,476,652 ("the '652 Patent"), entitled "Acidic Insulin Preparations Having Improved Stability," was duly and legally issued by the PTO. A true and copy of the '652 Patent is attached as Exhibit C to this Complaint.

14. On May 11, 2010, United States Patent No. 7,713,930 ("the '930 Patent"), entitled "Acidic Insulin Preparations Having Improved Stability," was duly and legally issued by the PTO. A true and copy of the '930 Patent is attached as Exhibit D to this Complaint.

15. The '864 Patent, '044 Patent, '652 Patent, and '930 Patent, are collectively referred to herein as the "Patents-in-Suit." By assignment, Sanofi GmbH owns all right, title, and interest in and to the Patents-in-Suit. Sanofi U.S. is an exclusive licensee of the Patents-in-Suit with exclusive rights, including the rights to sell and offer to sell in the United States the technologies, products, or services claimed by the Patents-in-Suit. Plaintiffs have the right to sue and recover for the infringement of the Patents-in-Suit.

BACKGROUND

16. Sanofi U.S. is the holder of approved New Drug Application ("NDA") No. 21-081 for insulin glargine [rDNA origin] for injection, which is prescribed and sold in the United States under the trademarks Lantus® and Lantus® SoloSTAR®. Currently, there are no generic or follow-on versions of Lantus® or of Lantus® SoloSTAR® approved by the United States Food and Drug Administration ("FDA") for sale in the United States.

17. The publication *Approved Drug Products with Therapeutic Equivalence Evaluations* (the "Orange Book") identifies drug products approved on the basis of safety and

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effectiveness by FDA under the Federal Food, Drug, and Cosmetic Act ("FFDCA"). Sanofi U.S. has listed each of the '864, '044, '652, and '930 Patents in the Orange Book as covering its Lantus® and/or Lantus® SoloSTAR® products.

18. On information and belief, Eli Lilly submitted NDA No. 205-692 to FDA, under 21 U.S.C. § 355(b)(2) (§ 505(b)(2) of the FFDCA), seeking FDA's approval to manufacture commercially and sell its proposed product – an insulin glargine [rDNA origin] for injection in a prefilled insulin delivery device, 100 units/mL ("Proposed Product"), that contains data from bioavailability or bioequivalence studies conducted in connection with Sanofi U.S.'s NDA No. 21-081.

19. On information and belief, on December 18, 2013, Eli Lilly sent a "Notice of Paragraph IV Certifications" pursuant to § 505(b)(2)(A)(iv), (b)(3) of the FFDCA to Plaintiffs, which discloses that its NDA No. 205-692 contained Paragraph IV certifications for, *inter alia*, the '864, '652, and '930 Patents. In its letter, Eli Lilly stated that its certification to FDA alleges that, *inter alia*, the '864, '652, and '930 Patents are invalid, unenforceable, and/or will not be infringed by the commercial manufacture, use, or sale of Eli Lilly's Proposed Product, before their respective expirations.

20. Sanofi U.S. received Eli Lilly's Notice of Paragraph IV Certifications on December 19, 2013.

21. Sanofi GmbH received Eli Lilly's Notice of Paragraph IV Certifications on December 20, 2013.

22. On information and belief, on January 23, 2014, Eli Lilly sent an "Amended Notice of Paragraph IV Certifications" pursuant to § 505(b)(2)(A)(iv), (b)(3) of the FFDCA to Plaintiffs, disclosing that Eli Lilly amended its Paragraph IV certifications contained in NDA

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No. 205-692 to include the '044 Patent. In its letter dated January 23, 2014, Eli Lilly stated that its certification to FDA alleges, *inter alia*, that each of the Patents-in-Suit is invalid, unenforceable, and/or will not be infringed by the commercial manufacture, use, or sale of Eli Lilly's Proposed Product, before their respective expirations.

23. Sanofi U.S. received Eli Lilly's Amended Notice of Paragraph IV Certifications on January 24, 2014.

24. Sanofi GmbH received Eli Lilly's Amended Notice of Paragraph IV Certifications on or about January 27, 2014.

25. Eli Lilly's Notice of Paragraph IV Certifications dated December 18, 2013, was accompanied by an Offer of Confidential Access.

26. Eli Lilly and Sanofi executed an Offer for Confidential Access, entitled "Terms of Confidential Access," on January 23, 2014.

27. On January 25, 2014, Sanofi received approximately 66 pages of Eli Lilly's 505(b)(2) application. Those pages were provided subject to the Terms of Confidential Access. No other portions of the 505(b)(2) application have been provided.

28. On information and belief, Eli Lilly's manufacture, use, sale and/or offer to sell in the United States, and/or importation into the United States, of its Proposed Product would infringe each of the Patents-in-Suit, literally and/or under the Doctrine of Equivalents.

29. Plaintiffs have commenced this action within 45 days after receiving Eli Lilly's Notice of Paragraph IV Certifications, and therefore FDA's approval of NDA 205-692 is subject to the stay provisions of 21 U.S.C. § 355(c)(3)(C).

COUNT I
(Infringement of U.S. Patent No. 8,556,864)

30. Plaintiffs repeat and re-allege paragraphs 1-29 above as if fully set forth herein.

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