

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

TEVA PHARMACEUTICALS )  
INTERNATIONAL GMBH and )  
TEVA PHARMACEUTICALS USA, INC., )

Plaintiffs, )

v. )

ELI LILLY AND COMPANY, )

Defendant. )

████████████████████  
**LEAVE TO FILE GRANTED ON  
SEPTEMBER 2, 2021**

Case No. 1:18-cv-12029-ADB

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████████████████████

**DEFENDANT ELI LILLY AND COMPANY'S OPPOSITION TO PLAINTIFFS'  
MOTION FOR SANCTIONS PURSUANT TO FED. R. CIV. P. 37(B)**

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## I. SUMMARY

This dispute centers on Teva’s unproven and implausible allegations that the Court’s March 8, 2021 Order for Lilly to search ESI using the term “galca\*” requires Lilly to search all ESI using the generic terms [REDACTED] or [REDACTED]. Those terms are not at all specific to galcanezumab, or even humanized CGRP antibodies, or even monoclonal CGRP antibodies—and are therefore entirely unsuited for use as “code or project names” intended to allow specific and confidential reference to a particular development project.

Lilly’s codes for purposes of identifying the project—and searched in response to the Court Order—prove the point. They were the code names [REDACTED] [REDACTED]. The terms [REDACTED] and [REDACTED] were not known project or code names for galcanezumab, and Lilly in good faith never believed it had been ordered to conduct a search for those generic terms. That a term *both parties* used like [REDACTED] [REDACTED] might show up colloquially in text to explain or introduce a topic within an otherwise code- or project-named project, just as “headache” might, does not turn such generic terms into code or project names. At the very worst, there is a bona fide dispute between the parties as to the scope of the Court’s Order, which does not justify the imposition of sanctions—at all—and certainly not the draconian, case-dispositive sanctions sought here by Teva.

Teva’s sanctions motion thus fails, because Lilly has not violated *any* order of this Court. Indeed, Lilly has gone out of its way to comply. On March 8, 2021, the Court ordered Lilly “to perform a search using the phrase ‘galca,’ as described in Teva’s letter/request [ECF No. [99]].” Dkt. No. 104. Search Term 1, as stated in Teva’s letter, was:

galca\* OR gmab OR 2951742 OR L2951742 OR Y2951742 OR LY2951742 OR LLY2951742 OR LSN2951742 OR [any internal project of [sic] code names used by Lilly]

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