

**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.

Civil Action No.  
1:18-cv-12029-ADB

**STIPULATION AND ORDER REGARDING ASSERTED CLAIMS**

Plaintiffs Teva Pharmaceuticals International GmbH; and Teva Pharmaceuticals USA, Inc. (collectively, “Plaintiffs” or “Teva”) and Defendant Eli Lilly and Company (“Lilly”) (collectively, the “Parties”) have agreed to enter into this stipulation to streamline the issues in dispute in this matter, subject to the approval of the Court;

WHEREAS, Teva has asserted claims 1, 3–4, 8–9, 12, 15–16, 24, 27, and 30–31 of U.S. Patent No. 8,586,045 (the “’045 patent”); claims 1, 4–7, 15, and 17 of U.S. Patent No. 9,884,907 (the “’907 patent”); and claims 1, 4–7, 15, and 17 of U.S. Patent No. 9,884,908 (the “’908 patent”) against Lilly; and

WHEREAS the Parties seek to reduce the number of claims and defenses to streamline the issues for trial, and accordingly hereby agree to dismiss certain claims and certain corresponding counterclaims and defenses.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties hereto, and subject to the approval of the Court, as follows:

1. Teva stipulates that it voluntarily dismisses its claims of infringement against Lilly of claims 1, 3–4, 8–9, 12, 15–16 and 31 of the '045 patent, claim 7 of the '907 patent, and claim 7 of the '908 patent pertaining to Lilly's Emgality<sup>®</sup> (galcanezumab-gnlm) product with prejudice pursuant to Fed. R. Civ. P. 41(a)(2).

2. Lilly stipulates that it voluntarily dismisses its defenses and counterclaims of invalidity and non-infringement pertaining to claims 1, 3-4, 8–9, 12, 15–16 and 31 of the '045 patent, claim 7 of the '907 patent, and claim 7 of the '908 patent with prejudice pursuant to Fed. R. Civ. P. 41(a)(2).<sup>1</sup>

3. The Parties stipulate that they will continue to assert their respective claims (*see* Dkt. No. 1, Counts I, VI, VII, X, XV, and XVI), counterclaims (*see* Dkt. No. 277, Counterclaim Counts I, II, XI–XIV, and XIX–XXI), and defenses (*see* Dkt. No. 277, Defenses 1, 2, 11–14, 19–25) with respect to only claims 17, 18, 19, 20, 21, 24, 27, and 30 of the '045 patent, claims 1, 4, 5, 6, 15, and 17 of the '907 patent, and claims 1, 4, 5, 6, 15, and 17 of the '908 patent.

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<sup>1</sup> For the avoidance of doubt, affirmative defenses and counterclaims of unclean hands and inequitable conduct apply to entire patents, not specific claims.

IT IS SO STIPULATED:

Dated: March 28, 2022

/s/ Andrea Martin (with permission)

Andrea L. Martin (BBO# 666117)  
BURNS & LEVINSON LLP  
125 High Street  
Boston, MA 02110-1624  
(617) 345-3000  
amartin@burnslev.com

Emily R. Gabranski  
Marta Garcia Daneshvar  
Lulu Wang  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
2 Seaport Lane  
Boston, MA 02210-2001  
Emily.Gabranski@finnegan.com  
Marta.Garcia@finnegan.com  
Lulu.Wang@finnegan.com

Mark J. Stewart  
Sanjay M. Jivraj  
ELI LILLY AND COMPANY  
Lilly Corporate Center  
Indianapolis, IN 46285  
stewart\_mark@lilly.com  
sjivraj@lilly.com

Charles E. Lipsey  
Ryan P. O'Quinn  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
1875 Explorer Street  
Suite 800  
Reston, VA 20190-6023  
Charles.Lipsey@finnegan.com  
oquinnr@finnegan.com

William B. Raich  
Danielle A. Duszczyszyn  
Denise Main  
Pier D. DeRoo  
Matthew J. Luneack

/s/ Elaine Herrmann Blais

Douglas J. Kline (BBO# 556680)  
Elaine Herrmann Blais (BBO# 656142)  
Robert Frederickson III (BBO# 670111)  
Joshua S. Weinger (BBO# 690814)  
Alexandra Lu (BBO# 691114)  
Eric T. Romeo (BBO# 691591)  
Kathleen A. McGuinness (BBO# 693760)  
Shaobo Zhu (BBO# 697669)  
GOODWIN PROCTER LLP  
100 Northern Avenue  
Boston, MA 02210  
Tel.: (617) 570-1000  
Fax: (617) 523-1231  
dkline@goodwinlaw.com  
eblais@goodwinlaw.com  
rfrederickson@goodwinlaw.com  
jweinger@goodwinlaw.com  
alu@goodwinlaw.com  
eromeo@goodwinlaw.com  
kmcguinness@goodwinlaw.com  
szhu@goodwinlaw.com

I. Neel Chatterjee (*pro hac vice*)  
GOODWIN PROCTER LLP  
601 Marshall St.  
Redwood City, CA 94063  
Tel.: (650) 752-3100  
Fax: (650) 853-1038  
nchatterjee@goodwinlaw.com

Natasha Daughtrey (*pro hac vice*)  
GOODWIN PROCTER LLP  
601 S. Figueroa St.  
Los Angeles, CA 90017  
Tel.: (213) 426-2500  
Fax: (213) 623-1673  
ndaughtrey@goodwinlaw.com

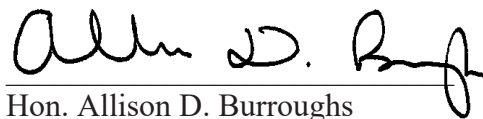
*Attorneys for Plaintiffs*

Yoonjin Lee  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
901 New York Avenue, NW  
Washington, DC 20001-4413  
William.Raich@finnegan.com  
Danielle.Duszczyszyn@finnegan.com  
Denise.Main@finnegan.com  
Pier.Deroo@finnegan.com  
Matthew.Luneack@finnegan.com  
Yoonjin.Lee@finnegan.com

*Attorneys for Defendant*

IT IS SO ORDERED.

Dated: 3/28/2022



Hon. Allison D. Burroughs  
United States District Judge