

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

TEVA PHARMACEUTICALS)	
INTERNATIONAL GMBH and)	
TEVA PHARMACEUTICALS USA, INC.,)	Case No. 1:18-cv-12029-ADB
)	
Plaintiffs,)	
)	
v.)	Leave to File Granted on
)	Feb. 22, 2022 (ECF No. 272)
ELI LILLY AND COMPANY,)	
)	
Defendant.)	

**DEFENDANT ELI LILLY AND COMPANY’S MOTION FOR
SUMMARY JUDGMENT OF INVALIDITY FOR LACK OF WRITTEN DESCRIPTION**

Pursuant to Federal Rule of Civil Procedure 56, Defendant Eli Lilly and Company (“Lilly”), by and through its undersigned counsel, hereby moves for summary judgment of invalidity under 35 U.S.C. § 112 for lack of written description as to all asserted claims of the patents-in-suit (U.S. Patent No. 8,586,045, claims 17, 18, 19, 20, 21, 24, 27, and 30; U.S. Patent No. 9,884,907, claims 1, 4, 5, 6, 15, and 17; and U.S. Patent No. 9,884,907, claims 1, 4, 5, 6, 15, and 17). The specification of the patents-in-suit does not, as a matter of law, demonstrate possession of the entire scope of the asserted claims in this action, which broadly cover methods of treating a wide range of headache disorders, using a vast array of functionally defined antibodies, administering a wide range of effective amounts, and using disparate routes of administration. There are no material facts in dispute, and Lilly is entitled to judgment as a matter of law. The grounds for the motion are fully set forth in Lilly’s memorandum in support of this motion, an affirmative Local Rule 56.1 statement of material facts, and the declaration of Emily Gabranski in support of Lilly’s motion with accompanying exhibits, filed concurrently with this motion.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Lilly respectfully requests oral argument on its motion for summary judgment.

Dated: March 28, 2022

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

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

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

Emily R. Gabranski (BBO 694417)
Marta Garcia Daneshvar
Lulu Wang (BBO 704042)
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

*Attorneys for Defendant
Eli Lilly and Company*

LR 7.1(a)(2) CERTIFICATION

I, Andrea Martin, hereby certify that Lilly's counsel met and conferred with Plaintiffs' counsel on February 15, 2022 and March 8, 2022 in an effort to narrow areas of dispute with respect to the issues raised in this motion.

/s/Andrea L. Martin
Andrea L. Martin, Esq.

CERTIFICATE OF SERVICE

I, Andrea Martin, hereby certify that a copy of the foregoing document, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies shall be served by first class mail postage prepaid on all counsel of record who are not served through the CM/ECF system on March 28, 2022.

/s/Andrea L. Martin
Andrea L. Martin, Esq.