

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

**UNOPPOSED MOTION FOR LEAVE TO FILE A SUR-REPLY
MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT’S MOTION TO
TRANSFER, OR, IF NOT TRANSFERRED, THEN TO STAY THIS LITIGATION
PENDING *INTER PARTES* REVIEW**

Pursuant to Local Rule 7.1(b)(3) of the United States District Court for the District of Massachusetts, Plaintiffs Teva Pharmaceuticals International GmbH (“Teva GmbH”) and Teva Pharmaceuticals USA, Inc. (“Teva USA” and collectively with Teva GmbH, “Teva”) move for leave to file a five-page sur-reply memorandum of law in further opposition to Defendant Eli Lilly and Company’s (“Lilly”) Motion To Transfer, Or, If Not Transferred, Then To Stay This Litigation Pending *Inter Partes* Review (“Lilly’s Motion”). D. 18. The proposed sur-reply is attached as Exhibit A hereto.

Lilly sought leave to file a reply in support of Lilly’s Motion on December 12, 2018. D. 27. This Court granted leave the next day, D. 28, and Lilly filed its reply on December 21, 2018. D. 29. In its reply, Lilly attaches five new exhibits, and makes certain assertions that warrant a response. Teva submits that a brief sur-reply memorandum is necessary in order to address the

arguments made in Lilly's reply, and Teva believes that such a sur-reply will assist the Court in adjudicating Lilly's Motion. Lilly's Motion is not yet scheduled for a hearing, and Teva has attached the proposed sur-reply to this Motion for leave; the requested sur-reply will therefore neither delay any proceedings nor prejudice either party. Lilly does not oppose the filing of this Motion.

WHEREFORE, Teva respectfully requests that this Court grant Teva's Motion for leave to file the attached, five-page sur-reply.

Dated: January 3, 2019

Respectfully submitted,

/s/ Robert Frederickson III
Douglas J. Kline (BBO# 556680)
Elaine Herrmann Blais (BBO# 656142)
Robert Frederickson III (BBO# 670111)
Alexandra Lu (BBO# 691114)
Eric Romeo (BBO# 691591)
Martin C. Topol (BBO# 696020)
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
alu@goodwinlaw.com
eromeo@goodwinlaw.com
mtopol@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

LOCAL RULE 7.1(a)(2) CERTIFICATION

I, Robert Frederickson III, hereby certify that on January 2, 2019, Teva's counsel conferred via email with Lilly's counsel regarding the relief requested in this Motion, and that on January 3, 2019, Lilly's counsel stated that Lilly does not oppose this Motion.

/s/ Robert Frederickson III

CERTIFICATE OF SERVICE

I, Robert Frederickson III, 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 January 3, 2019.

/s/ Robert Frederickson III