

**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.)	
)	
ELI LILLY AND COMPANY,)	
)	
Defendant.)	

DEFENDANT ELI LILLY AND COMPANY’S SECTION 282 NOTICE

Pursuant to 35 U.S.C. § 282, Defendant Eli Lilly and Company (“Lilly”), by and through its undersigned counsel, hereby provides the following identification of patents and publications to be relied upon as showing the state of the art and/or showing evidence of knowledge of one of ordinary skill in the art with regard to U.S. Patent Nos. 8,586,045 (“the ’045 patent”); 9,884,907 (“the ’907 patent”); and 9,884,908 (“the ’908 patent”; collectively, “the patents-in-suit”).

Lilly hereby incorporates by reference all pleadings and prior communications that identify any patents or publications that Lilly cites to show that any claim(s) of the patents-in-suit are invalid for one or more of the reasons under 35 U.S.C. § 101, et. seq., including but not limited to the following documents, all appendices and exhibits thereto, as well as all materials cited therein:

- Opening Expert Report of Dr. Andrew Charles Regarding Invalidity of U.S. Patent Nos. 8,586,045, 9,884,907, and 9,884,908, served September 16, 2021;
- Opening Expert Report of James M. McDonnell, Ph.D., Regarding Invalidity of U.S. Patent Nos. 8,586,045, 9,884,907, and 9,884,908, served September 16, 2021;

- Opening Expert Report of Diane R. Mould, Ph.D., FCP, FAAPS, served September 16, 2021;
- Rebuttal Expert Report of Dr. Andrew Charles Regarding Noninfringement, served November 1, 2021;
- Rebuttal Expert Report of James M. McDonnell, Ph.D., Regarding Noninfringement of U.S. Patent Nos. 8,586,045, 9,884,907, and 9,884,908, served November 1, 2021;
- Rebuttal Expert Report of Egilius Spierings, M.D., Ph.D., served November 1, 2021;
- Reply Expert Report of Dr. Andrew Charles Regarding Invalidity of U.S. Patent Nos. 8,586,045, 9,884,907, and 9,884,908, served December 7, 2021;
- Reply Expert Report of James M. McDonnell, Ph.D., Regarding Invalidity of U.S. Patent Nos. 8,586,045, 9,884,907, and 9,884,908, served December 7, 2021;
- Reply Expert Report of Dr. Diane R. Mould, Ph.D., served December 7, 2021;
- Lilly's Initial Disclosure Statement Pursuant to Fed. R. Civ. P. 26(a)(1), served May 1, 2020;
- Lilly's First Supplemental Initial Disclosure Statement Pursuant to Fed. R. Civ. P. 26(a)(1), served May 29, 2020;
- Lilly's Preliminary Disclosures Pursuant to Local Rule 16.6(d)(4), served July 10, 2020;
- Lilly's First Supplemental Disclosures Pursuant to Local Rule 16.6(d)(4), served April 28, 2021;
- All prior art cited on the face of the patents-in-suit;
- All materials identified in the record of *inter partes* review proceeding nos. IPR2018-01422, IPR2018-01423, IPR2018-01424, IPR2018-01425, IPR2018-01426, IPR2018-01427, IPR2018-01710, IPR2018-01711, and IPR2018-01712;

- All materials identified in the appellate record of case nos. 20-1747, 20-1748, 20-1749, 20-1750, 20-1751, 20-1752, 20-1876, 20-1877, and 20-1878, including briefs and the Federal Circuit's decision rendered in each appeal;
- All other materials identified to and/or exchanged with Plaintiffs from Lilly during the course of fact and expert discovery in the above-captioned matter; and
- All materials listed in Lilly's Trial Exhibit List and identified by Lilly in the Joint Pretrial Memorandum, including all amendments and supplements thereto.

Lilly provides the following list of patents, publications, persons, products, and other information out of an abundance of caution to satisfy 35 U.S.C. § 282. The fact that Lilly lists these patents, publications, persons, products, and other information does not reflect that all, more, or any number of these patents, publications, persons, products, and other information will ultimately be used by Lilly in the presentation of evidence at trial. Therefore, no implication should be taken that reliance on all of the identified patents, publications, persons, products, and other information are necessary to support any of Lilly's invalidity defenses.

PATENTS

DATE	DESCRIPTION
2/3/1998	U.S. Patent No. 5,714,468 to Binder
1/30/2001	U.S. Patent No. 6,180,370 to Queen et al.
4/22/2003	U.S. Patent No. 6,552,041 B1 to Patchett et al.
4/22/2003	U.S. Patent No. 6,552,043 B1 to Patchett et al.
2/10/2010	U.S. Patent No. 7,655,244 B2 to Blumenfeld

PUBLICATIONS, PRODUCTS, AND OTHER INFORMATION

DATE	DESCRIPTION
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3/13/1992	M. Ferrari and P. Saxena, Clinical Effects and Mechanism of Action of Sumatriptan in Migraine, <i>Clinical Neurology and Neurosurgery</i> 94 Supp.:S73-S77 (1992)
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