

AO 120 (Rev. 3/04)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Southern District of Indiana on the following Patents or Trademarks:

DOCKET NO. 1:10-cv-1376-TWP-DML	DATE FILED 10/29/2010	U.S. DISTRICT COURT Southern District of Indiana
PLAINTIFF ELI LILLY AND COMPANY		DEFENDANT TEVA PARENTERAL MEDICINES, INC., APP PHARMACEUTICALS, LLC, PLIVA HRVATSKA D.O.O., TEVA PHARMACEUTICALS USA INC., and BARR LAB
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input checked="" type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,772, 209 B2	8/10/2010	CLET NIYIKIZA, Inventor
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT Closed Judgment dated 3/31/2014, see attached.
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CLERK <i>Samuel R. Biggs</i>	(BY) DEPUTY CLERK <i>Martha J. Dancy</i>	DATE 4/29/2014
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Copy 1—Upon initiation of action, mail this copy to Director. Copy 3—Upon termination of action, mail this copy to Director
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AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court for the Southern District of Indiana on the following
 Trademarks or Patents. (the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 1:14-104-TWP-DKL	DATE FILED 1/23/2014	U.S. DISTRICT COURT for the Southern District of Indiana
PLAINTIFF ELI LILLY AND COMPANY		DEFENDANT GLENMARK GENERICS INC., USA GLENMARK PHARMACEUTICALS LTD GLENMARK GENERICS LTD.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,7772.209	8/10/2010	ELI LILLY AND COMPANY
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK <i>Paul R. Biggs</i>	(BY) DEPUTY CLERK <i>Paul R. Biggs</i>	DATE 1/23/2014
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PS AO 120 (Rev. 3/04)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Southern District of Indiana on the following Patents or Trademarks:


DOCKET NO. 1:13-cv-1469-TWP-DML	DATE FILED 9/13/2013	U.S. DISTRICT COURT Southern District of Indiana
PLAINTIFF ELI LILLY AND COMPANY		DEFENDANT SUN PHARMACEUTICAL INDUSTRIES LTD.; SUN PHARMA GLOBAL FZE
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,772,209	8/10/2010	ELI LILLY AND COMPANY
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY		
	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill
	<input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK 	(BY) DEPUTY CLERK 	DATE 9/17/2013
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACCORD HEALTHCARE, INC., USA
Petitioner

v.

ELI LILLY & COMPANY
Patent Owner

Case IPR2013-00356
Patent 7,772,209

Before MICHAEL J. FITZPATRICK, RAMA G. ELLURU, and
SCOTT E. KAMHOLZ, *Administrative Patent Judges*.

KAMHOLZ, *Administrative Patent Judge*.

DECISION
Denying *Inter Partes* Review
37 C.F.R. § 42.108

IPR2013-00356
Patent 7,772,209

I. INTRODUCTION

Accord Healthcare, Inc., USA (“Accord”) filed a petition (Paper 4) on June 14, 2013 to institute an *inter partes* review of claims 1-22 of U.S. Patent 7,772,209 (“the ’209 patent”). Accord later filed a corrected petition (Paper 6, “Pet.”). Patent Owner Eli Lilly & Company (“Eli Lilly”) filed a preliminary response (Paper 10, “Prelim. Resp.”). The Board, acting on behalf of the Director, has jurisdiction under 35 U.S.C. § 314.

The ’209 patent is involved in several civil actions for patent infringement, including *Eli Lilly & Co. v. Accord Healthcare, Inc., USA et al.*, 1:12-cv-00086-TWP-DKL (S.D. Ind.) (“the ’086 action”), filed January 20, 2012 and served January 23, 2012, and *Eli Lilly & Co. v. Accord Healthcare, Inc., USA*, 1:13-cv-00335-TWP-DKL (S.D. Ind.) (“the ’335 action”), filed February 28, 2013 and served March 7, 2013. Pet. 1; Prelim. Resp. 5-6.* The ’335 action has been consolidated into the ’086 action. Prelim. Resp. 6-7.

We deny the petition because it is time-barred under 35 U.S.C. § 315(b).

II. ANALYSIS

Eli Lilly served Accord with a complaint alleging infringement of the ’209 patent on at least two occasions: the ’086 action, on January 23, 2012, and the ’335 action, on March 7, 2013. Ex. 2004 (return of service for the ’086 action); Prelim. Resp. 5-6; *see also* Pet. 1. The earlier complaint was served more than one year before Accord filed the present petition; the latter, less than one year.

* The parties disagree as to whether the complaint in the ’335 action was served on February 28, 2013 or March 7, 2013. For purposes of this decision, we accept Eli Lilly’s representation that the complaint was served on March 7, 2013.

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