

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

PFIZER INC, PFIZER IRELAND :  
PHARMACEUTICALS, WARNER- :  
LAMBERT COMPANY, WARNER- :  
LAMBERT COMPANY, LLC, and :  
WARNER-LAMBERT EXPORT, LTD., :  
 :  
Plaintiffs, :  
 :  
v. : Civil Action No. 03-209 JJF  
 : (Consolidated)  
RANBAXY LABORATORIES LIMITED, :  
and RANBAXY PHARMACEUTICALS, :  
INCORPORATED, :  
 :  
Defendants. :

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Attorneys for Defendants.

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**MEMORANDUM OPINION**

April 12, 2004

Wilmington, Delaware

**Farnan, District Judge.**

**I. Background**

Pending before me is Pfizer's Motion To Determine The Sufficiency Of Ranbaxy's Responses To Requests For Admission (D.I. 45) filed pursuant to Rule 36 and 37. Ranbaxy responds to the Motion by first asserting that the use of "denied" alone is a sufficient response to a properly worded request for admission. Ranbaxy also argues as to specific requests that the requests are factually inaccurate as written, taken out of context from documents of Ranbaxy, or are directed to matters in dispute between the parties.

**II. Rule 36**

The purpose of Rule 36 of the Federal Rules of Civil Procedure is to allow parties to require their adversary to admit relevant facts not in dispute, thus eliminating the need to produce witnesses and evidence in support of these facts. When making a request for admission, each fact for which admission is requested should be set forth separately.

**III. Discussion**

Pfizer seeks my determination as to the sufficiency of Ranbaxy's response of "denied" to Pfizer's requests for admission. The source for the facts Pfizer seeks to have admitted are two February 28, 2003, abbreviated new drug application ("ANDA") letters which Pfizer argues contained

unambiguous admissions relating to U.S. Patent No. 5,273,995 (the "'995 patent") on infringement and a lack of anticipation by U.S. Patent No. 4,681,893 (the "'893 patent").

After reviewing the requests and responses, I find that Ranbaxy's responses are sufficient and meet the purposes of Rule 36. In reaching this conclusion, I have relied on the Third Circuit's decision in United Coal Co. v. Powell Construction Co., et al., 839 F.2d 958 (3d Cir. 1988). The instant dispute is similar to the dispute in United Coal where the court held:

Where, as here, issues in dispute are requested to be admitted, a denial is a perfectly reasonable response.

Id. at 967.

Pfizer argues that when confronted with its requests which are based on prior statements by Ranbaxy, that Ranbaxy should not be permitted to ignore its prior statements. Pfizer urges the Court to order its requests be deemed admitted finding that Ranbaxy is bound by its prior statements. Ranbaxy, on the other hand, contends that its prior statements are vague and ambiguous and certainly cannot be binding for purposes of this litigation.

I find Ranbaxy's argument persuasive. Pfizer has made clear that it considers the requests for which it seeks admissions to be capable of disposing of the central issues of this case.<sup>1</sup>

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<sup>1</sup> Pfizer argued in its brief that:  
The present motion, if granted, has significant implications concerning the scope of future proceedings in this case.  
It will at least confirm Ranbaxy's infringement of the '995

In my mind two principles weigh against Pfizer's view of sufficiency under Rule 36 in the context of the requests under review. First, courts have held that a consideration of "sufficiency" should focus on the specificity of the response and not on whether the response is correct or in good faith. Foretich v. Chung, 151 F.R.D. 3, 5 (D.D.C. 1993). I find that Ranbaxy's responses, given the scope and implications of the requests, are very specific and leave no doubt that Ranbaxy contests the substance of the requests. Second, I find Chief Judge Gibbons's holding in United Coal to be directly on point, i.e. where issues in dispute are requested to be admitted, a denial is a perfectly reasonable response. United Coal, 839 F.2d at 967. Infringement and the anticipation defense are certainly issues in dispute, and therefore, I believe Chief Judge Gibbons's reasoning is relevant to the decision on the Motion before me.

In sum, I find that the responses provided by Ranbaxy to Pfizer's requests for admission are sufficient under Rule 36 and 37.

An appropriate Order will be entered.

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patent and eliminate Ranbaxy's defense that the '995 patent is anticipated by the earlier '893 patent. Rarely, does a case present such issue-narrowing facts. (D.I. 45 at p. 1.)

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**ORDER**

At Wilmington, this 12th day of April, 2004, for the reasons discussed in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that Pfizer's Motion Pursuant To Federal Rule Of Civil Procedure 36 and 37 To Determine The Sufficiency Of Ranbaxy's Responses To Certain Of Pfizer's First Set Of Requests For Admission (D.I. 45) is **DENIED**.

JOSEPH J. FARNAN, JR.  
UNITED STATES DISTRICT JUDGE