

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABBOTT LABORATORIES, an Illinois
corporation, FOURNIER INDUSTRIE ET
SANTÉ, a French corporation, and
LABORATORIES FOURNIER S.A., a
French corporation,

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.,
a Delaware Corporation,

Defendant.

TEVA PHARMACEUTICALS USA, INC.,
a Delaware corporation, and TEVA
PHARMACEUTICAL INDUSTRIES
LIMITED, an Israeli corporation,

Counterclaim-Plaintiffs,

v.

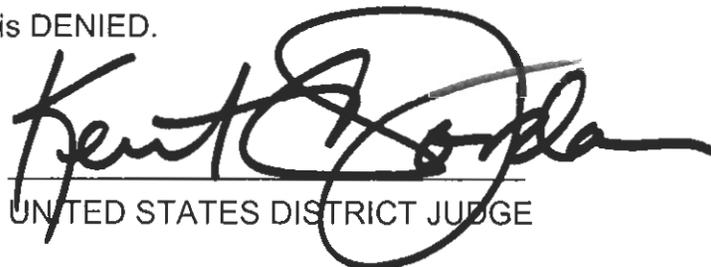
ABBOTT LABORATORIES, an Illinois
corporation, FOURNIER INDUSTRIE ET
SANTÉ, a French corporation, and
LABORATORIES FOURNIER S.A., a
French corporation,

Counterclaim-Defendants.

Civil Action No. 02-1512-KAJ
(Consolidated)

ORDER

For the reasons set forth in the Memorandum Opinion issued in this matter today, IT IS HEREBY ORDERED that Teva's Motion for a Separate Trial and Stay of Discovery on Willful Infringement (D.I. 134) is DENIED; Teva's Motion for Summary Judgment of Non-infringement (D.I. 208) is DENIED; Teva's Motion for Summary Judgment that the Stamm Patents are Unenforceable Because the Named Inventors Filed False Declarations (D.I. 214) is DENIED; Teva's Motion for Summary Judgment that Certain Claims of the Patents in Suit are Indefinite Under 35 U.S.C. § 112, paragraph 2, and are Invalid (D.I. 225) is DENIED; Teva's Motion for Summary Judgment of Non-infringement in View of the Properly Construed Claims of the Patents in Suit (D.I. 227) is DENIED in all respects except that it is GRANTED to the extent that Teva's product is held to not infringe, either literally or under the doctrine of equivalents, claims 1-3, 5, 7, 9, 15, 19, and 35 of the '670 patent, claims 1-12, 15-22, 25, 27, and 56-57 of the '552 patent, and claim 9 of the '405 patent because Teva's product does not contain a "hydrophilic polymer" in an amount of at least "20% by weight," as required by those claims; Teva's Motion for Summary Judgment that the Stamm Patents are Invalid Under 35 U.S.C. § 112 for Failure to Set Forth the Best Mode of the Invention for Carrying Out the Invention (D.I. 229) is DENIED; and Teva's *Daubert* Motion to Exclude Dr. Stephen Byrn (D.I. 232) is DENIED.


KENT A. JORDAN
UNITED STATES DISTRICT JUDGE

May 6, 2005
Wilmington, Delaware