

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.

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

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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,

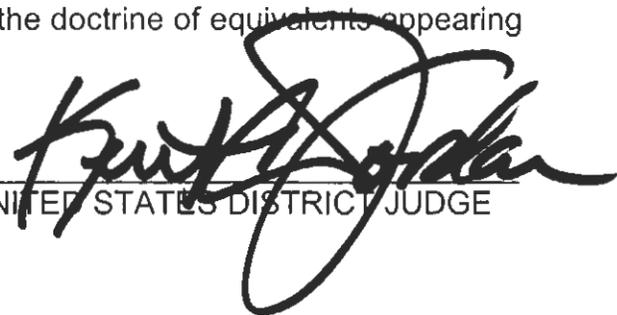
Counterclaim-Defendants.

ABBOTT LABORATORIES, an Illinois )  
corporation, FOURNIER INDUSTRIE )  
ET SANTE, a French corporation, and )  
LABORATORIES FOURNIER S.A., a )  
French corporation, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
IMPAX LABORATORIES, INC., a )  
Delaware corporation, )  
 )  
Defendant. )

Civil Action No. 03-120-KAJ  
(Consolidated)

**ORDER**

For the reasons stated in open court, the ruling with respect to Docket Item (“D.I.”) 175, Impax’s Motion for Partial Summary Judgment of Non-infringement of U.S. Patent No. 6,652,881 [‘881 patent] and Some Claims of Nos. 6,277,405 and 6,589,552, is also applicable to the assertion of claim 14 of the ‘881 patent against Impax. Accordingly, IT IS HEREBY ORDERED that Impax’s Motion for Partial Summary Judgment of Non-infringement of U.S. Patent No. 6,652,881 and Some Claims of Nos. 6,277,405 and 6,589,552 (the “20-45% motion”) (D.I. 175) is DENIED insofar as it pertains to literal infringement of the “20 to 45% by weight” limitation for micronized fenofibrate, but is GRANTED insofar as Abbott will be precluded from asserting that Impax’s formulation infringes this limitation under the doctrine of equivalents appearing in claim 14 of the ‘881 patent.

  
UNITED STATES DISTRICT JUDGE

Wilmington, Delaware  
May 9, 2005