

Federal Court



Cour fédérale

Date: 20170330

Docket: T-1496-13

Citation: 2017 FC 333

Ottawa, Ontario, March 30, 2017

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

TEVA CANADA LIMITED

Plaintiff

and

**PFIZER CANADA INC.,
WARNER-LAMBERT COMPANY and
WARNER-LAMBERT COMPANY, LLC**

Defendants

PUBLIC JUDGMENT

(Confidential Judgment issued March 30, 2017)

IT IS ADJUDGED AND ORDERED that:

1. The Plaintiff is entitled to damages in such amount as calculated based on the following findings including any agreed upon items whether contained in this Judgment or otherwise agreed.

- (a) The duration of the Liability Period is August 26, 2010 to February 14, 2013, and Teva/Ratiopharm would have been able to launch in or about that date.
- (b) The overall size of the Pregabalin market is to be calculated based upon Hollis' reports.
- (c) The overall size of the generic portion of the Pregabalin market is likewise to be based upon Hollis' reports.
- (d) Teva's share of the generic market is, using Hollis' reports, to be based upon the Court's conclusions that:
 - (i) Pfizer would not have launched GenMed during the Liability Period.
 - (ii) Mylan would not be an authorized generic for Pfizer nor would any other generic be an authorized generic.
 - (iii) No other generic would have entered the Pregabalin market during the Liability Period.
- (e) Neither Ratiopharm nor Teva would have listed Pregabalin on any formulary outside Quebec during the Liability Period.
- (f) Pricing for Pregabalin outside Quebec would have been at 75% of the Lyrica price, except in Quebec where pricing would have been 60% of the Lyrica price.
- (g) Trade spend would have been at 35%.

- (h) With respect to accounting issues, there are no inspection costs, the cost of API would be █████ per kg, and there are no adjustments for recipe costs and API quantities.
 - (i) Any pipefill adjustment will be in accordance with Hollis' report as clarified by the Court.
 - (j) The agreed upon items in paragraph 313 of the Reasons for Judgment (Confidential and Public) are to be findings of this Court.
2. The Court shall remain seized of this matter until final damages calculations are agreed to or settled by the Court which shall be concluded within six (6) months from the date of Judgment as may be varied by the Court.
 3. The parties may request the Court's assistance to settle one or more matters during the final calculation process.
 4. The Plaintiff shall have costs in an amount to be determined following submissions from the parties.

“Michael L. Phelan”

Judge