

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-5017

September Term 2007

08cv00070

Filed On: April 17, 2008

Nu-Pharm Inc.,

Appellant

v.

Food & Drug Administration, et al.,

Appellees

BEFORE: Henderson, Rogers, and Tatel, Circuit Judges

ORDER

Upon consideration of the motion for summary affirmance, the responses thereto, and the reply; and the motion to expedite, the responses thereto, and the reply, it is

ORDERED that the motion for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The district court properly dismissed appellant's complaint to avoid conflict with the injunction entered in Abbott Labs. v. Apotex, Inc., No. 97 C 7515 (N.D. Ill. Oct. 6, 2006). See Hilton Hotels Corp. v. Weaver, 325 F.2d 1010 (D.C. Cir. 1963) (per curiam). It is

FURTHER ORDERED that the motion to expedite be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam