

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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TEVA PHARMACEUTICALS USA,)	
INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 09-1111 (RMC)
)	
KATHLEEN SEBELIUS, Secretary of)	
Health and Human Services, <i>et al.</i> ,)	
)	
Defendants.)	
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ORDER

On March 2, 2010, the U.S. Circuit Court of Appeals for the D.C. Circuit reversed the judgment of this Court. *See Teva Pharmaceuticals USA, Inc. v. Sebelius*, 638 F. Supp. 2d 42 (D.D.C. 2009), *rev'd* Nos. 09-5281 & 09-5308, 2010 WL 695446 (D.C. Cir. Mar. 2, 2010).¹ Noting that the district court had not yet addressed the appropriateness of each form of relief that Teva Pharmaceuticals USA, Inc. (“Teva”) sought, the Circuit remanded for further proceedings not inconsistent with its Opinion. *See Teva*, 2010 WL 695446 at *15.

On remand and upon consideration of oral argument presented at a March 15, 2010, status conference, it is hereby

ORDERED AND DECLARED that Teva has not forfeited its right to 180-day marketing exclusivity for generic losartan potassium products under 21 U.S.C. § 355(j)(5)(D)(i)(I); and it is

¹ The Circuit issued the mandate in this case on March 12, 2010.

FURTHER ORDERED that the Food and Drug Administration (“FDA”) is **ENJOINED** from approving any Abbreviated New Drug Application (“ANDA”), *see* 21 U.S.C. § 355(j), for a generic version of Cozaar®² 25mg, 50mg, and 100mg tablets other than Teva’s ANDA No. 07-6958 prior to the conclusion of Teva’s 180-day period of marketing exclusivity; and it is

FURTHER ORDERED that the FDA is **ENJOINED** from approving any ANDA for a generic version of Hyzaar® 50mg/12.5mg and 100mg/25mg tablets other than Teva’s ANDA No. 07-7157 prior to the conclusion of Teva’s 180-day period of marketing exclusivity.

Accordingly, this case is closed. This is a final appealable order. *See* Fed. R. App.

P. 4(a).

SO ORDERED.

Date: March 16, 2010

/s/
ROSEMARY M. COLLYER
United States District Judge

² Merck and Co., Inc., holds two approved New Drug Applications, *see* 21 U.S.C. § 355(a) & (b), relating to losartan potassium/hydrochlorothiazide tablets, which it commercially markets under the brand name Cozaar® and Hyzaar®.