

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**BTG INTERNATIONAL LIMITED,
et al.,**

Plaintiffs,

v.

**AMNEAL PHARMACEUTICALS LLC,
et al.**

Defendants.

Civ. No. 15-cv-5909 (KM)(JBC)

**BTG INTERNATIONAL LIMITED,
et al.,**

Plaintiffs,

v.

**AMERIGEN PHARMACEUTICALS,
INC., and AMERIGEN
PHARMACEUTICALS LTD.,**

Defendants.

Civ. No. 16-cv-2449 (KM)(JBC)

**BTG INTERNATIONAL LIMITED,
et al.,**

Plaintiffs,

v.

**TEVA PHARMACEUTICALS USA,
INC.,**

Defendant.

Civ. No. 17-cv-6435 (KM)(JBC)

CONSOLIDATED ORDER

KEVIN MCNULTY, U.S.D.J.:

The Court in this patent infringement action of United States Patent No. 8,822,438 ("the '438 patent") having held a bench trial beginning on July 23, 2018 and concluding on August 2, 2018, and the Court having considered the parties' post-trial submissions (DE 533, 534, 535, 536, 549, 552, and 553), the evidence and testimony presented at trial, and the arguments of the parties; and

the Court having filed simultaneously herewith an Opinion setting forth its reasoning; and good cause appearing therefor;

IT IS this 26th day of October, 2018,

ORDERED and ADJUDGED, for the reasons expressed in the accompanying Opinion, that the '438 patent is invalid for obviousness and that the plaintiffs take nothing on their claims of infringement; and

IT IS FURTHER ORDERED in the alternative that if the patent were valid, defendants' activities would constitute induced infringement and contributory infringement; and

IT IS FURTHER ORDERED pursuant to the Court's equitable powers and Rule 62, that the status quo be maintained through Tuesday, October 30, 2018, and that no generic launch shall occur before October 31, 2018.¹ By close of business on October 29, 2018, the parties shall submit briefs, not to exceed 15 pages, on the effect of Fed. R. Civ. P. 62 and the appropriateness or not of a stay pending appeal. Assuming there is no agreement among the parties, I will hear oral argument on the stay application on Tuesday, October 30, 2018, at 3 p.m.


KEVIN MCNULTY
United States District Judge

¹ The Hatch-Waxman 30-month stay is scheduled to expire on Sunday, October 28, 2018. I find preliminarily that the merits of this case present a potentially appealable issue; that the harm to the plaintiffs and the balance of harms between the parties favors this very brief delay; that this temporary stay does no more than preserve the status quo; that a generic launch, if temporary, would create both financial and medical disruption; and that the public interest favors a brief delay to permit the orderly litigation of a stay pending appeal.