



**VIA ECF**

September 6, 2019

Col. Peter R. Marksteiner  
Clerk of Court  
United States Court of Appeals for the Federal Circuit  
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Washington D.C. 20439

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**Juanita R. Brooks**  
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Re: *GlaxoSmithKline, LLC v. Teva Pharmaceuticals USA, Inc.*, Nos. 18-1976, -2023

Dear Col. Marksteiner:

Teva's letter today was not a citation to supplemental authority, as the rules allow, but an effort to extend the briefing and argument. Because that letter is inaccurate, GSK must respond—though very briefly.

During argument, the question arose as to whether the jury was ever told Teva puts press releases on its website in any way, shape, or form. (Argument Audio (Arg.) 33:48-34:23 (Moore, J).) The answer is unequivocally yes, as GSK's counsel demonstrated at argument through Appx6353, a version of the 2007 press. (Arg. 59:01-1:00:04.)

The record presented at trial and to this Court shows that:

- Teva maintained a website in 2007, and at that time listed on its website its carvedilol product together with reference to its AB rating and GSK's Coreg® product. (Appx10991-992 (Collier).)
- In 2015, Teva's website still contained that content. (Appx10686-688 (McCullough).)
- In 2007, Teva issued a press release that Dr. McCullough testified doctors would have seen and that he receives press releases from generic companies, and that Dr. Zusman admitted other doctors possibly read. (Appx10671-672, 11655 (McCullough); Appx11238-239 (Zusman).)
- The 2007 press release admitted as an exhibit (PTX-1301) at trial, about which several witnesses were examined, and that featured prominently in closing, included a footer containing a Teva URL and April 2015 date. (Appx6353 (2007 release); Appx11656-657, -659-660 (McCullough); Appx10974 (Pastore); Appx10542 (Lietzan); Appx11833, -837-838, -853, -859-860 (closing).)
- The jury asked for a magnifying glass during its deliberations. (D.I. 28 (Blue Br.) at 18.)

Given the foregoing evidence, and viewed in the light most favorable to GSK as the verdict winner, it is reasonable that the jury inferred, in finding inducement for both the partial and full label periods, that Teva's 2007 press release (PTX-1301) was downloaded from the Teva website in 2015, based on the contents of the URL and footer, and had been maintained on Teva's



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website from its issuance in 2007 through 2015, just as the evidence showed that Teva maintained on its website its carvedilol product information from 2007 through at least 2015. And, even more testimony and argument about the 2007 press release was presented to the jury than contained in the appeal appendix.

Very truly yours,

A handwritten signature in black ink that reads "Juanita Brooks". The signature is written in a cursive, flowing style.

Juanita R. Brooks

**Certificate Of Service And Filing**

I certify that I electronically filed the foregoing document using the Court's CM/ECF filing system on September 6, 2019. All counsel of record were served via CM/ECF on September 6, 2019.

/s/ Juanita R. Brooks  
Juanita R. Brooks