



Daniel M. Silver
Wilmington Office Managing Partner
T. 302-984-6331
F. 302-691-1260
dsilver@mccarter.com

McCarter & English, LLP
Renaissance Centre
405 N. King Street, 8th Floor
Wilmington, DE 19801-3717
www.mccarter.com

November 29, 2022

VIA CM/ECF AND HAND DELIVERY

The Honorable Gregory B. Williams
U.S. District Court for the District of Delaware
J. Caleb Boggs Federal Building
844 N. King Street
Wilmington, DE 19801-3555

Re: *Jazz Pharms., Inc., et al. v. Avadel CNS Pharms., LLC*,
C.A. Nos. 21-691, 21-1138 & 21-1594-GBW

Dear Judge Williams:

We represent Defendant Avadel CNS Pharmaceuticals, LLC. We write to alert the Court to the status of Jazz's parallel motion to stay this Court's ruling on Avadel's delisting motion to the Court of Appeals to the Federal Circuit. Earlier this afternoon, the Federal Circuit issued the attached Order on Jazz's motion to stay and motion for expedited briefing. The Federal Circuit temporarily stayed this Court's injunction Order and held Jazz's motion to stay in abeyance on the basis that Jazz's separate stay motion is still pending before this Court, and that this Court "appears to be working towards a prompt resolution of that motion."

We appreciate the Court's prompt attention to this matter to date and respectfully request that the Court promptly rule on Jazz's motion to stay so that the Federal Circuit has the benefit of this Court's views when deciding Jazz's motion.

Respectfully submitted,

/s/ Daniel M. Silver

Daniel M. Silver (#4758)

cc: All counsel of record (via CM/ECF and E-Mail)

Enclosure

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

JAZZ PHARMACEUTICALS, INC.,
Plaintiff-Appellant

v.

AVADEL CNS PHARMACEUTICALS, LLC,
Defendant-Appellee

2023-1186

Appeal from the United States District Court for the District of Delaware in No. 1:21-cv-00691-GBW, Judge Gregory Brian Williams.

ON MOTION

PER CURIAM.

O R D E R

Jazz Pharmaceuticals, Inc. (“Jazz”) submits a motion to expedite the briefing schedule and a motion to stay, pending appeal, the district court’s November 18, 2022, injunction requiring it to request that its patent be delisted from the Orange Book by December 2, 2022. Avadel CNS Pharmaceuticals, LLC opposes expediting a response to the motion to stay.

Requests for a stay pending appeal are governed by Rule 8(a)(1) of the Federal Rules of Appellate Procedure, which provides that an applicant for a stay before a court of appeals must ordinarily wait until the district court has acted on the applicant's motion before that court. Jazz's motion to stay enforcement of the injunction is still pending before the district court, and that court appears to be working towards a prompt resolution of that motion.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The district court's November 18, 2022, injunction is temporarily stayed until further notice of this court.

(2) Jazz's motion to stay filed in this appeal is held in abeyance. The parties should promptly inform this court when the district court resolves the motion for a stay pending before that court.

(3) Jazz's opening brief is due December 16, 2022, as it proposes in its motion to expedite.

FOR THE COURT

November 29, 2022

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court