

NOTE: This order is nonprecedential.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 stay, pending appeal, the district court’s November 18, 2022, order directing Jazz to request that its patent be delisted from the Orange Book. Avadel CNS Pharmaceuticals, LLC opposes.

Rule 8(a)(2) of the Federal Rules of Appellate Procedure authorizes this court to grant an injunction pending appeal. Our determination is governed by four factors: (1) whether the movant has made a strong showing of a likelihood of success on the merits; (2) whether the movant will be irreparably injured absent an injunction; (3) whether issuance of the injunction will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *See Nken v. Holder*, 556 U.S. 418, 434 (2009).

Based on the papers submitted and in light of the scheduled February 2022 hearing for this expedited appeal, and without prejudicing the ultimate disposition of this case by a merits panel, we conclude that the better course is to extend this court's stay of the district court's order until further notice.

Accordingly,

IT IS ORDERED THAT:

The motion is granted to the extent that the district court's November 18, 2022, order is stayed until further notice of this court.

FOR THE COURT

December 14, 2022
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court