

Federal Court of Appeal



Cour d'appel fédérale

Court File No. A-636-97

CORAM: THE HONOURABLE THE CHIEF JUSTICE
THE HONOURABLE MADAME JUSTICE DESJARDINS
THE HONOURABLE MR. JUSTICE ROBERTSON

BETWEEN:

**ABBOTT LABORATORIES, LIMITED
and ABBOTT LABORATORIES**

Appellants
(Applicants)

- and -

**APOTEX INC. and
THE MINISTER OF HEALTH CANADA**

Repondents
(Respondents)

Heard at Ottawa, Ontario, Wednesday, October 29, 1997.

Delivered from the Bench at Ottawa, Ontario, Wednesday, October 29, 1997.

REASONS FOR JUDGMENT BY:

THE CHIEF JUSTICE

Federal Court of Appeal



Cour d'appel fédérale

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CORAM: THE HONOURABLE THE CHIEF JUSTICE
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BETWEEN:

**ABBOTT LABORATORIES, LIMITED
and ABBOTT LABORATORIES**

Appellants
(Applicants)

- and -

**NU-PHARM INC. and
THE MINISTER OF HEALTH CANADA**

Repondents
(Respondents)

Heard at Ottawa, Ontario, Wednesday, October 29, 1997.

Delivered from the Bench at Ottawa, Ontario, Wednesday, October 29, 1997.

REASONS FOR JUDGMENT BY:

THE CHIEF JUSTICE

Federal Court of Appeal



Cour d'appel fédérale

Court File No. A-646-97

CORAM: THE HONOURABLE THE CHIEF JUSTICE
THE HONOURABLE MADAME JUSTICE DESJARDINS
THE HONOURABLE MR. JUSTICE ROBERTSON

BETWEEN:

**ABBOTT LABORATORIES, LIMITED
and ABBOTT LABORATORIES**

Appellants
(Applicants)

- and -

**APOTEX INC. and
THE MINISTER OF HEALTH CANADA**

Repondents
(Respondents)

Heard at Ottawa, Ontario, Wednesday, October 29, 1997.

Delivered from the Bench at Ottawa, Ontario, Wednesday, October 29, 1997.

REASONS FOR JUDGMENT BY:

THE CHIEF JUSTICE

Federal Court of Appeal



Cour d'appel fédérale

Court File No. A-647-97

CORAM: THE HONOURABLE THE CHIEF JUSTICE
THE HONOURABLE MADAME JUSTICE DESJARDINS
THE HONOURABLE MR. JUSTICE ROBERTSON

BETWEEN:

**ABBOTT LABORATORIES, LIMITED
and ABBOTT LABORATORIES**

Appellants
(Applicants)

- and -

**NU-PHARM INC. and
THE MINISTER OF HEALTH CANADA**

Repondents
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Heard at Ottawa, Ontario, Wednesday, October 29, 1997.

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REASONS FOR JUDGMENT BY:

THE CHIEF JUSTICE



A-636-97

OTTAWA, ONTARIO, THIS 29th DAY OF OCTOBER 1997

CORAM: THE CHIEF JUSTICE
DESJARDINS J.A.
ROBERTSON J.A.

B E T W E E N :

**ABBOTT LABORATORIES, LIMITED
and ABBOTT LABORATORIES**

Appellants
(Applicants)

- and -

**APOTEX INC. and
THE MINISTER OF HEALTH CANADA**

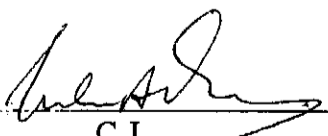
Respondents
(Respondents)

REASONS FOR JUDGMENT

This appeal was heard together with the appeals in Court File No. A-637-97, Court File No. A-646-97, and Court File No. A-647-97.

One copy of these reasons will be filed in each of those files and will be considered dispositive of the appeal therein.

We have not been persuaded that Rothstein J. committed any reviewable error in granting the preliminary application of the respondents Apotex Inc and Nu-Pharm Inc. or in dismissing the application for prohibition of the appellants. The appeals will therefore be dismissed, but in the circumstances, with one set of costs.


C.J.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO.: A-636-97
**APPEAL FROM AN ORDER OF THE TRIAL DIVISION DATED SEPTEMBER 16, 1997
IN T-1652-97.**

STYLE OF CAUSE: Abbott Laboratories, Limited et al.
v. Apotex Inc. et al.

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: Wednesday, October 29, 1997

**REASONS FOR JUDGMENT
OF THE COURT:** The Chief Justice
Desjardins J.A.
Robertson J.A.

RENDERED FROM THE BENCH BY: The Chief Justice

APPEARANCES:

Mr. Ronald E. Dimock
Ms. Michelle L. Wassenaar for the Appellants

Mr. Alfred Schorr
Mr. Joseph I. Etigson for the Respondent Apotex Inc.

SOLICITORS OF RECORD:

Dimock Stratton Clarizio
Toronto, Ontario for the Appellants

Mr. Alfred Schorr
Barrister & Solicitor
Markham, Ontario

and

Hughes Etigson
Thornhill, Ontario for the Respondent Apotex Inc.

George Thomson
Deputy Attorney General of Canada
Ottawa, Ontario for the Respondent Minister

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO.:

A-637-97

**APPEAL FROM AN ORDER OF THE TRIAL DIVISION DATED SEPTEMBER 16, 1997
IN T-1653-97.**

STYLE OF CAUSE:

Abbott Laboratories, Limited et al.
v. Nu-Pharm Inc. et al.

PLACE OF HEARING:

Ottawa, Ontario

DATE OF HEARING:

Wednesday, October 29, 1997

**REASONS FOR JUDGMENT
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The Chief Justice
Desjardins J.A.
Robertson J.A.

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The Chief Justice

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and

Hughes Etigson
Thornhill, Ontario

for the Respondent Apotex Inc.

George Thomson
Deputy Attorney General of Canada
Ottawa, Ontario

for the Respondent Minister

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO.:

A-646-97

**APPEAL FROM AN ORDER OF THE TRIAL DIVISION DATED SEPTEMBER 4, 1997
IN T-1652-97.**

STYLE OF CAUSE:

Abbott Laboratories, Limited et al.
v. Apotex Inc. et al.

PLACE OF HEARING:

Ottawa, Ontario

DATE OF HEARING:

Wednesday, October 29, 1997

**REASONS FOR JUDGMENT
OF THE COURT:**

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Desjardins J.A.
Robertson J.A.

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Deputy Attorney General of Canada
Ottawa, Ontario

for the Respondent Minister

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO.:

A-647-97

**APPEAL FROM AN ORDER OF THE TRIAL DIVISION DATED SEPTEMBER 4, 1997
IN T-1653-97.**

STYLE OF CAUSE:

Abbott Laboratories, Limited et al.
v. Nu-Pharm Inc. et al.

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