

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130724

Docket: A-121-12

Citation: 2013 FCA 187

**CORAM: NOËL J.A.
PELLETIER J.A.
GAUTHIER J.A.**

BETWEEN:

**APOTEX INC., and
APOTEX PHARMACHEM INC.**

Appellants

and

**SANOFI-AVENTIS and BRISTOL-MYERS SQUIBB
SANOFI PHARMACEUTICALS HOLDINGS PARTNERSHIP**

Respondents

Heard at Toronto, Ontario, on January 28 & 29, 2013.

Judgment delivered at Ottawa, Ontario, on July 24, 2013.

REASONS FOR JUDGMENT BY:

PELLETIER J.A.

CONCURRED IN BY:

**NOËL J.A.
GAUTHIER J.A.**

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REASONS FOR JUDGMENT

PELLETIER J.A.

[1] This is an appeal from the order of costs made following a 26 day trial in which the Federal Court found that Canadian Patent No. 1,336,777 (the '777 Patent) was invalid for lack of utility and obviousness. The appellants argue that the Federal Court erred in denying them certain of their disbursements. In File No. A-7-12, this Court overturned the Federal Court's decision, upheld the validity of the '777 Patent, and ordered costs against the appellant Apotex in this Court and in the Federal Court. As a result, this appeal is now moot.

[2] The appeal should therefore be dismissed.

"J.D. Denis Pelletier"

J.A.

"I agree
Marc Noël J.A."

"I agree
Johanne Gauthier J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-121-12

STYLE OF CAUSE: APOTEX INC. and APOTEX
PHARMACHEM INC. and
SANOFI-AVENTIS and
BRISTOL-MYERS SQUIBB
SANOFI PHARMACEUTICALS
HOLDINGS PARTNERSHIP

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 28 and 29, 2013

REASONS FOR JUDGMENT BY: PELLETIER J.A.

CONCURRED IN BY: NOËL J.A. &
GAUTHIER J.A.

DATED: July 24, 2013

APPEARANCES:

Anthony G. Creber / Cristin A. Wagner /
Marc Richard

FOR THE APPELLANTS

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Richard Naïberg / Sandon Shogilev

FOR THE RESPONDENTS

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