

NOTE: This order is nonprecedential.

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

DURAMED PHARMACEUTICALS, INC.,
Plaintiff-Appellant,

v.

WATSON LABORATORIES, INC.,
Defendant-Appellee.

2011-1438

Appeal from the United States District Court for the District of Nevada in case no. 08-CV-0116, Judge Larry R. Hicks.

ON MOTION

Before LOURIE, LINN, AND DYK, *Circuit Judges.*

LOURIE, *Circuit Judge.*

O R D E R

Duramed Pharmaceuticals, Inc. (Duramed) submits a motion for a temporary injunction to prevent Watson Laboratories, Inc. (Watson) from launching a generic version of its patented drug, pending disposition of its

appeal, and seeks an expedited briefing schedule. Watson opposes. Duramed replies.

Rule 8(a)(1)(C)(2) of the Federal Rules of Appellate Procedure authorizes this court to grant an injunction pending appeal. Similar to a motion to stay a judgment or injunction pending appeal, which is authorized under this same rule, our determination is governed by four factors, the first two of which are the most critical: (1) whether the movant has made a strong showing of likelihood of success on the merits; (2) whether the movant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).

Without prejudicing the ultimate disposition of this case by a merits panel, we conclude based upon the papers submitted that Duramed has not established that it is entitled to the extraordinary relief of a temporary injunction pending this appeal.

Accordingly,

IT IS ORDERED THAT:

(1) The motion for a temporary injunction is denied.

(2) The motion for expedited briefing is granted. Duramed's opening brief shall be filed within seven days of the issuance of this order. Watson's brief shall be due fourteen days after the filing of Duramed's opening brief. Duramed's reply brief and the joint appendix shall be due seven days after the filing of Watson's brief.

FOR THE COURT

JUL 27 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Vernon M. Winters, Esq.
Mark T. Jansen, Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

JUL 27 2011

JAN HORBALY
CLERK