

NOTE: This order is nonprecedential.

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

ABRAXIS BIOSCIENCE, LLC,
Plaintiff-Appellant,

v.

**MICHELLE K. LEE, DEPUTY UNDER SECRETARY
OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DEPUTY DIRECTOR, U.S. PATENT AND
TRADEMARK OFFICE,**
Defendant-Appellee.

2014-1330

Appeal from the United States District Court for the
District of Columbia in No. 1:11-cv-00730-BAH, Judge
Beryl A. Howell.

ON MOTION

Before PROST, *Chief Judge*, WALLACH and TARANTO,
Circuit Judges.

PROST, *Chief Judge.*

O R D E R

The parties jointly move to remand to the district court in light of *Novartis AG v. Lee*, 740 F.3d 593 (Fed. Cir. 2014).

Based on *Novartis*, the parties agree that the patent term adjustment at issue in this appeal should be 323 days. Thus, the parties seek a remand with instructions for the district court to vacate the portion of its judgment denying the patent term adjustment and further instructions to remand to the U.S. Patent and Trademark Office for the purpose of recalculating the patent term adjustment.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion is granted. The case is remanded for further proceedings consistent with this order.
- (2) Each party shall bear its own costs.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk of Court

s30

ISSUED AS A MANDATE: June 18, 2014