

NOTE: This order is nonprecedential.

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

**TEVA PHARMACEUTICALS USA, INC.,
THROUGH ITS GATE PHARMACEUTICALS
DIVISION,**
Plaintiff-Appellant,

v.

**EISAI CO., LTD. AND EISAI MEDICAL RESEARCH,
INC.,**
Defendants-Appellees.

2009-1593

Appeal from the United States District Court for the District of New Jersey in case no. 08-CV-2344, Chief Judge Garrett E. Brown, Jr.

O R D E R

Upon consideration of the order of the Supreme Court of the United States in *Eisai Co., Ltd., et al., v. Teva Pharmaceuticals USA, Inc. Through Its Gate Pharmaceuticals Division*, --- S.Ct. ---- (2011), vacating this court's judgment,

IT IS ORDERED THAT:

(1) The mandate of this court issued on December 13, 2010 is recalled, the appeal is reinstated, and this court's October 6, 2010 judgment is vacated.

(2) The appeal is remanded to the district court with instructions to dismiss the complaint as moot.

FOR THE COURT

July 21, 2011

/s/ Jan Horbaly

Date

Jan Horbaly
Clerk

cc: Francis C. Lynch, Esq.
Bruce M. Wexler, Esq.