

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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BAYER SCHERING PHARMA AG and,  
BAYER HEALTHCARE  
PHARMACEUTICALS INC.,

Plaintiffs,

v.

BARR LABORATORIES, INC.,

Defendants.

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Civil Action No. 05-cv-2308 (PGS)

**ORDER**

This action having been opened to the Court, and the Court having heard the testimony of witnesses, and considered the briefs and arguments of counsel, and for the reasons set forth in its Opinion, and for good cause having been shown;

IT IS ORDERED AND ADJUDGED that:

(1) The Court concludes that asserted claims 1, 5, 8, 27, 29, 36, 49 and 50 of U.S. Patent No. 6,787,531 (“the ‘531 patent”) would have been obvious to the hypothetical person of ordinary skill in the art as of August 31, 1998. Therefore, the Court declares that claims 1, 5, 8, 27, 29, 36, 49 and 50 of the ‘531 Patent are invalid under 35 U.S.C. §103.

(2) The Court concludes that there was no clear and convincing evidence that asserted claims 1, 5, 8, 27, 29, 36, 49 and 50 of the ‘531 Patent were anticipated by Plaintiffs’ prior public use of the claimed invention in the United States more than one year before the filing date of the ‘531 Patent.

(3) The Court concludes there was no clear and convincing evidence that Plaintiffs breached their duty of candor and good faith, or otherwise committed inequitable conduct before the United States Patent and Trademark Office during the prosecution of the application that issued as the '531 Patent.

The suit is dismissed with prejudice and without costs to either party.

*s/Peter G. Sheridan*  
PETER G. SHERIDAN, U.S.D.J.

March 3, 2008