

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

_____	:	
ALTANA PHARMA AG and WYETH,	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 04-2355 (JLL)
	:	
v.	:	
	:	ORDER
TEVA PHARMACEUTICALS USA INC.,	:	
ET AL.	:	
	:	
Defendants	:	
_____	:	

WHEREAS, on May 20, 2010, Plaintiffs Altana Pharma AG (now known as Nycomed GmbH) and Wyeth (now known as Wyeth LLC) (collectively, “Plaintiffs”) moved for relief under 35 U.S.C. § 271(e)(4)(A) with respect to all Defendants, including KUDCo, seeking an order mandating that the effective dates of the Abbreviated New Drug Application (“ANDAs”) submitted by them to the U.S. Food and Drug Administration (“FDA”) be set for a date after January 19, 2011 when U.S. Patent No. 4,758,579 (the “’579 patent”) and Plaintiffs’ pediatric exclusivity period will have expired;

WHEREAS, on July 16, 2010 the Court entered its order denying the motion with respect to all defendants (D.I. 873);

WHEREAS, on July 16, 2010, the court entered final judgment against Schwarz Pharma Inc. and KUDCo Ireland Ltd. (collectively “KUDCo”) (D.I. 874);

WHEREAS, KUDCo has no outstanding defenses to Plaintiffs’ claims of patent infringement;

WHEREAS, on July 22, 2010, Plaintiffs moved under Local Rule 7.1(i) for reconsideration of the Court's denial of the motion for an order under 35 U.S.C. § 271(e)(4)(A) as to KUDCo (D.I. 881);

IT IS ON this 13th day of August, 2010

ORDERED that Plaintiffs' Motion for Reconsideration Pursuant to Local Civil Rule 7.1(i) of the Court's order denying relief under 35 U.S.C. § 271(e)(4)(A) with respect to KUDCo is hereby **GRANTED**; and it is further

ORDERED that, effective July 16, 2010, the effective date of any final approval of KUDCo's ANDA 78-281 shall be a date which is not earlier than January 20, 2011, the first day after the date on which Plaintiffs' pediatric exclusivity period ends.

SO ORDERED.

/s/ Jose L. Linares
United States District Judge