

5 Rapp no. 16 (2014)

TEVA PHARMACEUTICALS USA, INC. ET
AL. V. SANDOZ, INC. ET AL.

HEADNOTE

by Ira Brad Matetsky

Source: U.S. Supreme Court website

Opinion by: John G. Roberts, Jr. (noted in source).

Opinion date: April 18, 2014 (noted in source).

Citation: *Teva Pharmaceuticals USA, Inc. v. Sandoz, Inc.*, 572 U.S. ____,
134 S. Ct. 1621, 5 Rapp no. 16 (2014) (Roberts, C.J., in chambers), 2
J. In-Chambers Practice 27 (2018).

Additional information: Teva Pharmaceuticals petitioned for certiorari to review a Federal Circuit decision in a patent case. After the Supreme Court granted the petition, Teva moved for a stay of the Federal Circuit's decision. Despite the grant of certiorari, Chief Justice Roberts denied the motion. Although Teva had "of course" established that certiorari was likely to be granted and had also shown a fair prospect of success on the merits, it had not demonstrated a likelihood of irreparable harm from the denial of a stay, because it could recover damages if it ultimately prevailed on the merits.

OPINION

No. 13A1003 (13–854)

TEVA PHARMACEUTICALS USA, INC., ET AL.
v. SANDOZ, INC., ET AL.

ON APPLICATION TO RECALL AND STAY MANDATE

[April 18, 2014]

CHIEF JUSTICE ROBERTS, Circuit Justice.

The application to recall and stay the mandate of the United States Court of Appeals for the Federal Circuit, see 723 F. 3d 1363 (2013), is denied. To obtain such relief, applicant Teva Pharmaceuticals USA, Inc., must demonstrate (1) a “reasonable probability” that this Court will grant certiorari, (2) a “fair prospect” that the Court will reverse the decision below, and (3) a “likelihood that irreparable harm [will] result from the denial of a stay.” *Maryland v. King*, 567 U. S. 1301, 1302 (2012) (ROBERTS, C. J., in chambers) (internal quotation marks omitted). Teva has of course satisfied the first requirement, and has also shown a fair prospect of success on the merits. I am not convinced, however, that it has shown a likelihood of irreparable harm from denial of a stay. Respondents acknowledge that, should Teva prevail in this Court and its patent be held valid, Teva will be able to recover damages from respondents for past patent infringement. See Brief in Opposition 25–28. Given the availability of that remedy, the extraordinary relief that Teva seeks is unwarranted.

It is so ordered.