

Federal Court



Cour fédérale

Date: 20140811

Docket: T-1667-12

Citation: 2014 FC 794

Ottawa, Ontario, August 11, 2014

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

**ALCON CANADA INC. and
ALCON RESEARCH, LTD.**

Applicants

and

**APOTEX INC. and
THE MINISTER OF HEALTH**

Respondents

JUDGMENT

UPON considering this application, under the provisions of the *Patented Medicines (Notice of Compliance) Regulations*, SOR/93-133, as amended [*NOC Regulations*], to prohibit the Minister of Health from issuing a Notice of Compliance [NOC] to Apotex in respect of its generic product (Apo-Travoprost Z, or the Apotex product) until the expiry of Canadian Letters Patent No 2,606,370 (the '370) on September 20, 2027.

AND UPON having determined in Confidential Reasons for Judgment dated August 11, 2014, 2014 FC 791, which will be made public with necessary redactions, that the allegations with respect to the invalidity of the claims at issue for obviousness are justified and the allegations with respect to invalidity for lack of utility are not justified, and that the application should be dismissed.

THIS COURT'S JUDGMENT is that:

1. The applicant's application for an order prohibiting the Minister of Health from issuing a notice of compliance to Apotex for the Apotex product (Apo-Travoprost Z) until the expiry of Canadian Patent '370 on September 20, 2027 is dismissed.
2. The respondents shall have their costs of the application to be assessed at the middle of Column IV of Tariff B.

"Catherine M. Kane"

Judge