

OPINION OF INDIVIDUAL JUSTICE
IN CHAMBERS

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

ON APPLICATION TO RECALL AND STAY MANDATE

No. 13A1003 (13–854). Decided April 18, 2014

Application to recall and stay the mandate of the United States Court of Appeals for the Federal Circuit in this patent infringement case is denied. Applicants cannot show a likelihood of irreparable harm from denial of a stay because, if they prevail in this Court, they will be able to recover damages for past patent infringement.

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, applicants Teva Pharmaceuticals USA, Inc., and related firms, 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.

Opinion in Chambers

Given the availability of that remedy, the extraordinary relief that Teva seeks is unwarranted.

It is so ordered.