**INTRODUCTION:**

· Mihaela (this is the case given to us, topic)

In tonight’s presentation we will be looking at the 3 pharmaceutical companies involved in a settlement agreement that prompted the United States Federal Trade Commission to file a lawsuit against these companies.

· Solvay – Ken - Hatchman Act – Patent – what is it?

**Solvay**

**Solvay** **Group** is a Belgian multinational chemical company established in 1863. It operates worldwide through 4 segments including advanced materials, specialty chemicals, solutions and business services. **Solvay Pharmaceuticals, Inc.** is a research driven group of companies that constitute the global pharmaceutical business of the Solvay Group.

-Watson pharmaceutical now known as Teva Pharmaceuticals is a global pharmaceuticals company focused on acquiring, developing, manufacturing and marketing branded pharmaceuticals, generics and over-the-counter medicines and biologic products.

-By acquiring Actavis generics Watson pharmaceutical became the worlds 3rd largest generic company, which was then acquired by Teva Pharmaceuticals.

The company has its administrative headquarters in New Jersey, United States.

· Paddock – Ding

Paddock Laboratories, Inc. is now part of Perrigo Company.

Perrigo started from humble beginnings more than 130 years ago in rural Michigan. Today, it is one of the largest over-the-counter (OTC) self-care companies selling products globally.

Perrigo is a leading provider of over-the-counter health and wellness solutions that enhance individual well-being by empowering consumers to proactively prevent or treat conditions that can be self-managed.

Give background information about how the drug was produced and the relationships between the companies.

In the next couple of minutes, my colleagues and I will be outlining the consequences of this agreement and how this changed the market structure and influenced consumers. And we will also be focusing on why we believe that the Federal Trade Commission lawsuit against the agreement between Solvay and Watson and Paddock constituted illegal restraint of trade

**Main Part:**

1. What is the market structure prior to entry by Watson Pharmaceuticals and Paddock Pharmaceuticals? How would it change if Watson and Paddock entered with their generic versions? Mihaela/ Apurva

-•Monopoly:

A monopolistic market describes a market where only one company may offer products and services to the public.

•It has complete market power and can decide the price for the product - Price Makers

•Solvay was given a patent, exclusivity to sell that unique product to the market.

•Single seller, no competition, price of product is high.

•Barrier to entry is almost impossible due to the patent (legal protection) on the drug.

Oligopoly: – a state of limited competition, in which a market is shared by a small number of producers or sellers.

The pharmaceutical industry is a significant and heavily-regulated industry in the US economy. The Drug Price Competition and Patent Term Restoration Act of 1984 (known as the “Hatch-Waxman Act” after its sponsors), established the regulation of generic pharmaceuticals in the market. Prior to 1984, there were relatively few generic drugs, and the Congress sought to facilitate competition from lower-priced generic drugs, while maintaining incentives for pharmaceutical companies to invest in developing new drugs.

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2. What would happen to prices, sales, and consumer surplus if the generic drug makers entered the market? Ken + graph

- Benefit to the consumer.

The entry of generic drug makers would bring competition to the market with their low-priced generic product. According to the estimations of Watson and Paddock, the prices of the generic version of AndroGel would be about 80% lower than the retail price of the original version. So the prices would significantly fall.

Meanwhile, due to the lower prices, we believe that the total sales in the market would increase because as the price decreases, the demand will increase. However, the AndroGel produced by Solvay would lose most of its sales while the generic version would capture the most of the market because of the low prices.

When it comes to consumer surplus, it would increase after the entry of generic drug. The definition of consumer surplus is the price that consumers are willing to pay minus the price that they actually pay. In this case, the actual price of the product would significantly fall and the price they are willing to pay would not change much. So consumer surplus would increase.

3. Why was it beneficial for Watson and Paddock to accept the settlement instead of competing with AndroGel. Pryanka

-beneficial for them, cost of production will be high

$750,000 on commercial manufacturing equipment to produce the drugs.

This sort of payment is referred to as a reverse payment agreement, since the patent-holder agrees to a settlement in which it pays the company it is suing (rather than the other way around).

In September 2006, Watson agreed to a “co-promotion agreement” in which Watson would receive a high share of the profits generated on sales of AndroGel to urologists, a group of doctors to which Watson would be responsible for marketing.

The agreement was projected to result in expected payments of $19 million in 2007, and as much as $30 million per year by the end of the contract.

Similar negotiations occurred between Solvay and Paddock (who had joined in partnership with Par Pharmaceuticals). Solvay agreed to pay Paddock $12 million per year for promoting various Solvay drugs and serving as a back-up manufacturer to Besins.

4. Could other potential entrants seek payments from Solvay to stay out of the market? Ding

- Illegal, damage to the customer - Ding + Liao

They may do what Watson and Paddock did and stay out of the market by signing a contract with Solvay.

In fact, it may not be possible to allow more potential entrants to do so.

According to the FTC, such behavior is not conducive to market competition. If Solvay continues to monopolize the production and sale of this gel, there will be less competition in the market for this gel and Solvay will have the absolute right to set prices for this gel, which could lead to higher drug costs. This would be detrimental to consumers.

In addition, it is illegal to do so.

**Conclusion** : - Apurva, liao

- Mention the current status of the case/ not allowed.

Should others be allowed to do this moving forward?

Conclusion

The agreement will make AndroGel with a high price in a long term.

The agreement will help Solvay Pharmaceutical to keep its monopoly status.

The agreement basically transfer the cost of Solvay Pharmaceutical to customers.

when a payment is the means of settlement, that gives the generic a share of the monopoly profits that would co-opt it out of competing, with the result that the patent monopoly is “artificially prolonged.”   Such a payment, according to the FTC, gives the generic company the chance for more money than it could obtain from the brand-name firm even if the generic won their patent dispute.

Current Status

on August 13, 2012, the FTC made public a proposed rule to amend the Hart-Scott Rodino (HSR) premerger notification rules that would increase the number of pharmaceutical patent licensing agreements that would be subject to pre-consummation filing and review.

 The HSR Act and its implementing rules require that certain mergers and acquisitions be filed with the FTC and the Antitrust Division of the Justice Department and that the parties observe a waiting period prior to consummating the transaction.  Previously, the FTC stated in guidance that the grant of an “exclusive” patent license (that is exclusive against the licensor and all third parties, i.e., not subject to preexisting licenses) is a potentially reportable asset acquisition under the HSR Act and rules.  The FTC’s proposed revisions to the HSR rules, however, “would change this standard—though only for licenses relating to pharmaceutical patents.”

Congress acted on the FTC’s recommendation. Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (the “MMA”), pharmaceutical companies must file certain agreements with the FTC and the Department of Justice within ten days of their execution.