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BY E-FILING

The Honorable Sue L. Robinson
United States District Court
844 North King Street
Wilmington, DE 19801

RE: *AstraZeneca AB, et al. v. Dexcel, Ltd. et al.*, C.A. No. 06-358 (SLR)

Dear Judge Robinson:

AstraZeneca submits this letter pursuant to the Court's direction at the May 3, 2007 telephonic discovery conference (Tr. at 17:6-19) and in further response to Dexcel's May 1, 2007 letter to the Court.

As discussed herein, AstraZeneca has already produced all documents concerning aaiPharma's "omeprazole research and the working relationship between aaiPharma and AstraZeneca," and has not withheld *any* research, testing, or other technical documents, such as described in Dexcel's letter. AstraZeneca also has not objected to the production of any such documents by aaiPharma. Thus, Dexcel has access to all the documents it needs on the issue of inventorship. The documents that AstraZeneca submitted for in camera review [redacted] including a license agreement concerning another patent and the surrounding negotiations, [redacted] have nothing to do with the patent claims and defenses raised in this action. [redacted]

Dexcel has not articulated any reason why a license agreement, relating to a patent not at issue in this case, is relevant to the validity or infringement of AstraZeneca's patent-in-suit, and for good reason. The terms of the agreement do not contain technical information relating to any omeprazole produced by aaiPharma, nor do the terms reference any omeprazole produced by Cipla, Dexcel's supplier of bulk omeprazole. [redacted] They also have no bearing on whether the claimed inventions might have

been made or sold prior to the filing of the '380 patent in suit. [redacted]

Dexcel's suggestion that the license agreement and related documents are relevant contradicts its earlier representations regarding the potential relevance of aaiPharma-related documents. Dexcel asserted that it sought documents from aaiPharma because it believes aaiPharma may have produced the product that is claimed in the '380 patent prior to AstraZeneca. (*See* Dec. 6, 2007 Tr. at 26:14-16; Jan 12, 2007 Tr. at 37:11-12; Feb 1, 2007 Tr. at 44:20-21; April 16, 2007 Tr. at 58:25-59:3). AstraZeneca has not objected to the production of any documents relating to the development of that product, however.

With respect to later performed research, AstraZeneca long ago produced information relevant to the invention of Form A, the 5- and 6- methoxy isomer content of omeprazole, or the crystalline structure thereof. Specifically, AstraZeneca has produced data from x-ray diffraction, Raman spectroscopy, and solid state NMR. (*See* May 1, 2007 Dexcel letter at p. 3). AstraZeneca has not withheld any such information from Dexcel. [redacted]

Finally, for clarity, AstraZeneca confirms again that it has not withheld any communications with the FDA, including the April 10, 2000 and July 5, 2001 letters to the FDA referenced in Dexcel's letter. AstraZeneca produced those documents to Dexcel in January 2007. AstraZeneca also confirms that it has not asked aaiPharma to withhold production of documents other than those submitted for *in camera* review. It is our understanding that aaiPharma produced the remaining documents that Dexcel subpoenaed today.

In view of the highly sensitive nature of the documents submitted for in camera review, and their lack of relevance to any claim or defense in this action, AstraZeneca respectfully submits that the Court should not require their production by aaiPharma.

Respectfully,

Karen Jacobs Louden

Karen Jacobs Louden
Counsel for AstraZeneca AB, et al.

/cbh

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