IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ASTRAZENECA AB, AKTIEBOLAGET HÄSSLE, KBI-E, INC., KBI, INC. and ASTRAZENECA LP,	)	
Plaintiffs,	)	Civil Action No. 06-358 (SLR)
v.	)	
DEXCEL, LTD., DEXXON, LTD., DEXCEL PHARMA TECHNOLOGIES, LTD. and DEXCEL PHARMA TECHNOLOGIES,	)	
Defendants.	)	

DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION TO EXTEND TIME TO ANSWER, MOVE OR OTHERWISE RESPOND

Defendants Dexcel, Ltd., Dexxon, Ltd., Dexcel Pharma Technologies Ltd., and Dexcel Pharma Technologies respectfully submit this reply in support of its motion for a thirty (30) day enlargement of the time within which to answer, move or otherwise respond to the Complaint in this action.

1. Plaintiffs' response did not identify any prejudice or reason to deny the enlargement sought by Defendants. Instead, Plaintiffs oppose Defendants' motion only because Defendants would not agree to their vague request "not to use the delay ... to argue either in this Court, or in the Virginia court, that the litigation should proceed in Virginia." Plaintiffs' Response, at ¶ 8. This is an insufficient reason to deny the reasonable extension in the schedule sought by Defendants.

2. Plaintiffs themselves *chose* to file a lawsuit in Virginia, which is the proper jurisdiction for this action. They should not expect that the Virginia action will be

deferred. Recently, under highly similar circumstances, the Virginia court put all parties on notice that lawsuits in that district will proceed:

> Plaintiffs, and no one else, filed two identical lawsuits in two different forums Plaintiffs, and no one else, alleged jurisdiction and venue in this Court in their Complaint. They should not be surprised this lawsuit is proceeding, as that is what happens when you file suit in this District. This Court is of the firm belief that justice delayed is justice denied.

Aventis Pharma Deutschland GMBH v. Lupin Ltd., 403 F. Supp. 2d 484, 491 (E.D. Va. Dec. 2, 2005).

2. Defendants did not agree to Plaintiffs' condition because they intend to move to dismiss the present action and/or transfer it to the Virginia court, where jurisdiction over the real parties in interest is proper. Plaintiffs' lawsuit in this District, on the other hand, is subject to challenge on many grounds, including improper parties, improper service, lack of personal jurisdiction, and duplicative litigation.

3. Plaintiffs state their desire to avoid unnecessary delay in moving this matter forward. Plaintiffs' Response, at ¶ 7. Plaintiffs evidently also accept that this matter will proceed more quickly in the Eastern District of Virginia. *Id.*, at ¶ 3. Rather than opposing a reasonable extension in this case, therefore, Plaintiffs should voluntarily dismiss this action and/or agree that it should be transferred to Virginia, where Defendants have already filed answers to Plaintiffs' complaint.

4. A delay of thirty days should not affect the Court's schedule in this action This Court has set a Rule 16 conference for August 1, 2006, which is two weeks from Defendants' requested date (July 20, 2006) to answer, move, or otherwise respond

WHEREFORE, the defendants respectfully request that the Court enter an order granting a thirty (30) day enlargement of the time within which to answer, move or

otherwise respond to the Complaint in this action, and grant such other relief as the Court deems just.

June 26, 2006

THE BAYARD FIRM

/s/ Richard D. Kirk
Richard D. Kirk (rk0922)
Ashley B. Stitzer (as3891)
222 Delaware Avenue
Suite 900
P.O. Box 25130
Wilmington, DE 19899
(302) 655-5000
Attorney for Defendants

OF COUNSEL:
Robert F. Green
David M. Airan
Saumil S. Mehta
Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza
180 N. Stetson Avenue
Suite 4900
Chicago, IL 60601
(312) 616-5600

CERTIFICATE OF SERVICE

The undersigned counsel certifies that, on June 26, 2006, he electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send automatic notification of the filing to the following:

Jack B. Blumenfeld, Esq.
Karen Jacobs Louden, Esq.
Morris, Nichols, Arsht & Tunnell LLP
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19801

The undersigned counsel further certifies that, on June 26, 2006, copies of the foregoing document were sent by email and hand to the above local counsel and by email and first class mail to the following non-registered participant:

Errol B. Taylor, Esq.
Robert J. Koch, Esq.
Jay I. Alexander, Esq.
Enrique D. Longton, Esq.
Milbank, Tweed, Hadley & McCloy LLP
1850 K Street NW
Washington, DC 20006

/s/ Richard D. Kirk (rk0922)
Richard D. Kirk