IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

**PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION FOR LEAVE TO FILE AN AMENDED ANSWER AND COUNTERCLAIMS**

Plaintiffs AstraZeneca AB, Aktiebolaget Hässle, KBI-E Inc., KBI Inc. and AstraZeneca LP ("AstraZeneca") respond as follows to Defendant Dexcel Pharma Technologies, Ltd.'s ("Dexcel") motion for leave to file an Amended Answer and Counterclaims.

**I. Additional Defense of Inequitable Conduct**

Dexcel proposes to add an affirmative defense of unenforceability based upon inequitable conduct based on the testimony of Dr. Langkilde and documents produced during this litigation. (See Def. Motion at p. 3-4). In its motion for leave to file an amended answer, Dexcel sets forth certain allegations to support its theories of inequitable conduct. (See Def. Motion, Ex. A at p. 8-17). Subject to Dexcel's defense being limited to the allegations contained in Dexcel's motion, although AstraZeneca

believes the allegations to be baseless, it does not oppose addressing Dexcel's defense of inequitable conduct at trial.

**II. Additional Counterclaims of Monopolization and Unfair Competition**

Dexcel also proposes to add counterclaims for monopolization and attempted monopolization under Section 2 of the Sherman Act, 15 U.S.C. § 2 and unfair competition under common law and the Lanham Act. (See Def. Motion at p. 1). Subject to these additional counterclaims being severed and stayed based on prior agreement by the parties, although AstraZeneca believes Dexcel's counterclaims to be baseless, it does not oppose the addition of Dexcel's monopolization and unfair competition counterclaims.

The parties have previously agreed that Dexcel's counterclaims of monopolization and unfair competition should be severed and stayed. (See August 6, 2007 Tr. at 19:10-14). Thus, AstraZeneca understands that its obligation to submit a responsive pleading to these counterclaims is stayed pending resolution of the patent liability issues that are the subject of the amended complaint filed by AstraZeneca against Dexcel.

**III. Conclusion**

Subject to the foregoing, AstraZeneca does not oppose Dexcel's motion for leave to file an amended answer and counterclaims.

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August 24, 2007

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**CERTIFICATE OF SERVICE**

I certify that on this 24th day of August 2007, I caused a true and correct copy of the foregoing to be served upon counsel in the following manner:

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