UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

CHAIRMAN:
Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:
Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vratil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

Judge Anthony J. Scirica
United States Court of Appeals
Third Circuit

DIRECT REPLY TO:

Jeffery N. Lüthi
Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
Judiciary Building
Room G-255, North Lobby
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October 18, 2006

Fernando Galindo, Acting Clerk
Albert V. Bryan U.S. Courthouse
401 Courthouse Square
Alexandria, VA 22314-5798

Peter T. Dalleo, Clerk
J. Caleb Boggs Federal Bldg., Lockbox 18
844 North King Street
Wilmington, DE 19801-3570

Re: MDL-1291 -- In re Omeprazole Patent Litigation

AstraZeneca AB, et al., v. Dexcel, Ltd., et al., D. Delaware, C.A. No. 1:06-358 SLR
AstraZeneca AB, et al. v. Dexcel, Ltd., et al., E.D. Virginia, C.A. No. 1:06-634

Dear Clerks:

I am enclosing a certified copy of an order filed today by the Panel involving the above-captioned matter.

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By _____
Kevin B. Washington
Deputy Clerk

Enclosure

cc: Transferee Judges: Judge Barbara S. Jones
Transferor Judges: Judge Claude M. Hilton, Judge Sue L. Robinson

A CERTIFIED TRUE COPY
OCT 18 2006
ATTEST
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION
OCT 18 2006
FILED
CLERK'S OFFICE

DOCKET NO. 1291

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE OMEPRAZOLE PATENT LITIGATION

***AstraZeneca AB, et al. v. Dexcel, Ltd., et al.*, D. Delaware, C.A. No. 1:06-358 SLR**
***AstraZeneca AB, et al. v. Dexcel, Ltd., et al.*, E.D. Virginia, C.A. No. 1:06-634**

BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL, DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL

ORDER VACATING CONDITIONAL TRANSFER ORDER

Presently before the Panel is a motion by defendants[1] in these actions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), to vacate the Panel's order conditionally transferring the actions to the Southern District of New York for inclusion in the Section 1407 proceedings occurring there in this docket. The patent holder parties[2] favor inclusion of these actions in MDL-1291 proceedings.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that although these two actions share some questions of fact with previously centralized MDL-1291 actions, inclusion of these two actions in MDL-1291 proceedings would not necessarily serve the convenience of the parties and witnesses or further the just and efficient conduct of these two actions and the MDL-1291 litigation. Given i) the stipulation of the Dexcel parties to the construction of the '230 and '505 patent claims already of record in MDL-1291, and ii) their pledge not to contest the validity of these patents in the two actions now before the Panel, along with the significantly advanced stage of MDL-1291 proceedings, the Panel is persuaded that inclusion of these two actions in MDL-1291 is not warranted.

IT IS THEREFORE ORDERED that the Panel's conditional transfer order designated as "CTO-8" is vacated.

FOR THE PANEL:

Wm. Terrell Hodges
Chairman

[1] Dexcel Ltd., Dexxon Ltd., Dexcel Pharma Technologies Ltd., and Dexcel Pharma Technologies (collectively the Dexcel parties).

[2] Aktiebolaget Hassle, AstraZeneca AB, AstraZeneca L.P., KBI-E Inc., and KBI Inc.