IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ELAN PHARMA INTERNATIONAL LIMITED,	)	
	)	C.A. No. 06-438-GMS
Plaintiff,	)	
v.	)	
ABRAXIS BIOSCIENCE, INC.,	)	
Defendant.	)	

PLAINTIFF'S CROSS-MOTION TO LIMIT BY PROTECTIVE ORDER DEFENDANT'S FED. R. CIV. P. 30(b)(6) DEPOSITION OF PLAINTIFF

Pursuant to Federal Rule of Civil Procedure 26, Plaintiff Elan Pharma International Limited ("Elan") hereby files this cross-motion to Defendant Abraxis BioScience Inc.'s Motion to Compel Production of Damages Discovery, seeking an Order granting Elan partial protection from Defendant Abraxis BioScience, Inc.'s Federal Rule of Civil Procedure 30(b)(6) deposition of Plaintiff.

By Oral Order docketed on July 9, 2007, Judge Sleet directed that all future discovery disputes in this matter be referred directly to a Special Master at the parties' expense. After a proposed order of reference to a Special Master was submitted by Abraxis, Judge Sleet informed the parties during a July 16, 2007 teleconference (D.I. 200) that Magistrate Stark would be installed on August 6, 2007, and directed them to hold their pending discovery disputes in abeyance until the Magistrate Judge was able to hear them. On August 8, 2007, counsel for Elan wrote to Judge Stark seeking guidance as to how such disputes were to be addressed (D.I. 245), and were subsequently informed by counsel for Abraxis that Judge Stark's chambers had directed the parties to present its disputes by motion.

The grounds for this motion are fully set forth in Plaintiff's Combined Answering Brief to Defendant Abraxis Bioscience Inc.'s Motion to Compel Production of Damages Discovery and Opening Brief in Support of its Cross-Motion to Limit by Protective Order Defendant's Fed. R. Civ. P. 30(b)(6) Deposition of Plaintiff, the Declaration of Linda M. Glover thereto, the pleadings and other papers filed herein, and such additional arguments or evidence as the Court shall receive.

WHEREFORE, Plaintiff respectfully requests the Court grant Plaintiff's Cross-Motion to Limit by Protective Order Defendant's Fed. R. Civ. P. 30(b)(6) Deposition of Plaintiff.

ASHBY & GEDDES

/s/ John G. Day

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Dated: August 22, 2007
183495.1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ELAN PHARMA INTERNATIONAL LIMITED,	)	
Plaintiff,	)	C.A. No. 06-438-GMS
vi.	)	
ABRAXIS BIOSCIENCE, INC.,	)	
Defendant.	)	

[PROPOSED] ORDER

The Court, having considered Plaintiff's Motion to Limit by Protective Order Defendant's Rule 30(b)(6) Deposition Notice, is of the opinion that it should be, and hereby is, GRANTED. It is therefore ORDERED that:

1. Elan's objections to Abraxis's Requests for Production Nos. 61-64 and 106 are sustained;

2. Topic No. 16 of Abraxis's Rule 30(b)(6) deposition Notice to Elan is stricken;

3. Elan is relieved of its obligations under the Federal Rules of Civil Procedure to testify in response to Topics No. 3-4, 6-13, and 15 of Abraxis's Rule 30(b)(6) deposition Notice to the extent that they seek information regarding "Particulate Composition Patents" other than the Patents-In-Suit;

4. Elan is relieved of its obligations under the Federal Rules of Civil Procedure to testify in response to Topics No. 3-4, 6, 8-10, and 12 of Abraxis's Rule 30(b)(6) deposition Notice to the extent that they seek information about Elan's confidential license

agreements, or the negotiations thereof, with third parties regarding the Patents-In-Suit or related family patents;

5. Topic No. 14 of Abraxis's Rule 30(b)(6) deposition Notice is stricken;

6. Elan's objections to Abraxis's Rule 30(b)(6) deposition Notice, which are attached as Exhibit B hereto, are sustained; and

7. Abraxis's motion to compel the production of documents listed in Elan's confidentiality log is denied.

Dated:_____

_____
JUDGE PRESIDING

CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1

I hereby certify that counsel have discussed the subject matter of the attached motion, but that an agreement could not be reached.

/s/ John G. Day

John G. Day