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September 10, 2007

BY CM/ECF

The Honorable Leonard P. Stark
United States District Court for the District of Delaware
844 North King Street
Wilmington, DE 19801

Re: Elan Pharma Int'l Ltd. v. Abraxis BioScience, Inc. – C.A. No. 06-438-GMS

Dear Judge Stark:

This firm represents Defendant Abraxis BioScience, Inc ("Abraxis") in the above-captioned matter. I write to provide Your Honor with context relevant to three reply briefs of Abraxis. The first was filed on September 4, 2007, specifically, Defendant Abraxis BioScience, Inc.'s Reply Brief in Support of its Motion to Compel Production of Damages Discovery (D.I. 312). The second has been filed today as Defendant Abraxis BioScience, Inc.'s Reply Brief in Support of its Motion for Protective Order Against the Depositions of Drs. Soon-Shiong and Neil Desai (D.I. 323), and the third has been filed today as Defendant Abraxis BioScience, Inc.'s Reply Brief in Support of its Motion Against Plaintiff Elan Pharma International Limited's Notice of Rule 30(b)(6) Deposition (D.I. 325).

Abraxis filed its Motion to Compel Damages Discovery on August 8, 2007 (D.I. 240). On August 23, 2007, Plaintiff Elan Pharma International Limited ("Elan") filed its opposition to this motion as Plaintiff Elan Pharma International Limited's Answering Brief to Defendant Abraxis BioScience Inc.'s Motion to Compel Production of Damages Discovery and Plaintiff's 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 (D.I. 285). A Cross-Motion to Limit by Protective Order Defendant's Fed. R. Civ. P. 30(b)(6) Deposition of Plaintiff was filed by Elan on August 22, 2007. (D.I. 282)

Abraxis filed its Motion for Protective Order Against the Depositions of Drs. Patrick Soon-Shiong and Neil Desai on August 13, 2007 (D.I. 247). On August 30, 2007, Elan filed its opposition to this motion as Elan Pharma International Limited's Answering Brief to Defendant Abraxis BioScience Inc.'s Motion for Protective Order Against the Depositions of Drs. Soon-Shiong and Desai and Opening Brief in Support of its Cross-Motion to Compel the Depositions of Drs. Soon-Shiong and Desai (D.I. 297). A Cross-Motion to Compel the Depositions of Drs. Soon-Shiong and Desai was filed by Elan on August 30, 2007 (D.I. 296).

Abraxis filed its Motion for Protective Order Against Plaintiff Elan Pharma International Limited's Notice of Rule 30(b)(6) Deposition on August 13, 2007 (D.I. 252). On August 30, 2007, Elan filed its opposition to this motion as Elan Pharma International Limited's Answering Brief to Defendant Abraxis BioScience Inc.'s Motion for Protective Order Against Plaintiff Elan Pharma International Limited's Notice of Rule 30(b)(6) Deposition and Opening Brief in Support of its Cross-Motion to Compel Rule 30(b)(6) Deposition of Defendant (D.I. 305). A Cross-Motion to Compel Rule 30(b)(6) Deposition of Abraxis BioScience Inc. was filed by Elan on August 30, 2007 (D.I. 304).

While Elan styled each of its oppositions to Abraxis' motions as a combined "Answering Brief" and "Opening Brief," the substance of each set of papers makes it clear that each is nothing more than an *opposition* to these motions – as opposed to a "cross-motion". None of Elan's papers contains any substance or request for relief except in response to Abraxis's motions. Elan did not file separate sets of briefs in support of the "cross-motions". For these reasons, Abraxis is filing reply briefs with respect to each of its motions, but is not filing answering briefs in opposition to the purported cross-motions. Moreover, even if Elan's purported "cross-motions" had contained substance beyond simply argument in opposition to Abraxis's motions, the "cross-motions" are untimely because the discovery cut-off in this case took place on August 13, 2007.

Please advise us should Your Honor wish us to follow a different procedure.

Respectfully submitted,

Elena C. Norman by

Elena C. Norman (#4780) (#4837)

ECN:mcm

cc: Clerk of Court (by CM/ECF)
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