UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

EXHIBIT 8
PLAINTIFF'S DEPOSITION DESIGNATIONS
AND
DEFENDANT'S OB AND COUNTER-
DESIGNATIONS TO PLAINTIFF'S DEPOSITION DESIGNATIONS
AND
PLAINTIFF'S RESPONSES AND OBJECTIONS TO DEFENDANT'S OBJECTIONS AND COUNTER-DESIGNATIONS

Plaintiff Elan Pharma International Limited ("Elan") makes the following deposition designations for its case.

Deposition Designations

Elan may present the following witnesses by deposition for its case:

1. Patrick Soon Shiong (page/line designations attached as Exhibit 8-A.)

2. Neil Desai (page/line designations attached as Exhibit 8-B.)

3. Michael Hawkins (page/line designations attached as Exhibit 8-C.)

4. Ulagaraj Selvaraj (page/line designations attached as Exhibit 8-D.)

5. Herbert Lee (page/line designations attached as Exhibit 8-E.)

6. Leslie Louie (page/line designations attached as Exhibit 8-F.)

7. Lianjun Shi (page/line designations attached as Exhibit 8-G.)

8. Dewey H. Barich (page/line designations attached as Exhibit 8-H.)

9. Johnson Tai Wong (page/line designations attached as Exhibit 8-I.)

10. Edmund A. C. Crouch (page/line designations attached as Exhibit 8-J.)

11. Mansoor M. Amiji (page/line designations attached as Exhibit 8-K.)

12. Michael Hamrell (page/line designations attached as Exhibit 8-L)

13. William J. Davis (page/line designations attached as Exhibit 8-M)

14. Kathryn Melody (page/line designations attached as Exhibit 8-N

Responses and Objections

Defendant Abraxis makes the following objections and counter-designations to Elan's designations of deposition testimony, and Elan makes the following responses and objections:

1. Patrick Soon Shiong (objections, counter-designations, and responses attached as Exhibit 8-AA).

2. Neil Desai (objections, counter-designations, and responses attached as Exhibit 8-BB).

3. Michael Hawkins (objections, counter-designations, and responses attached as Exhibit 8-CC).

4. Ulagaraj Selvaraj (objections, counter-designations, and responses attached as Exhibit 8-DD).

5. Herbert Lee (objections, counter-designations, and responses attached as Exhibit 8-EE).

6. Leslie Louie (objections, counter-designations, and responses attached as Exhibit 8-FF).

7. Lianjun Shi (objections, counter-designations, and responses attached as Exhibit 8-GG).

8. Dewey H. Barich (objections, counter-designations, and responses attached as Exhibit 8-HH).

9. Johnson Tai Wong ((objections, counter-designations, and responses attached as Exhibit 8-II).

10. Edmund A. C. Crouch (objections, counter-designations, and responses attached as Exhibit 8-JJ).

11. Mansoor M. Amiji (objections, counter-designations, and responses attached as Exhibit 8-KK).

12. Michael Hamrell (objections, counter-designations, and responses attached as Exhibit 8-LL.

13. William J. Davis (objections, counter-designations, and responses attached as Exhibit 8-MM).

Elan's General Objections to Abraxis's Counter-Designations

Plaintiff Elan Pharma International Ltd ("Elan") objects to Abraxis's counter-designations as far exceeding the "fairness" requirement of Federal Rule of Civil Procedure 32(a)(4) (providing that "[i]f only part of a deposition is offered in evidence by the party, an adverse party may require the offeror to introduce any other part which *ought in fairness* to be considered with the part introduced" (emphasis added)), and Federal Rule of Evidence 106 (providing "[w]hen a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part . . . or recorded statement which *ought in fairness* to be considered contemporaneously with it" (emphasis added)). Abraxis' counter-designations far exceed any rational interpretation of the Third Circuit's "rule of completeness." *See U.S. v. Noble*, 251 Fed. Appx. 792, 798 (3d Cir. 2007) ("We have interpreted [Federal Rule of Evidence 106] to mean that the remainder of a writing is required to be read 'if it is necessary to (1) explain the admitted portion, (2) place the admitted

portion in context, (3) avoid misleading the trier of fact, or (4) insure a fair and impartial understanding.'" (citing *U.S. v. Soures*, 736 F.2d 87, 91 (3d Cir. 1984))).

Evidence of Abraxis' excessive counter-designations, far exceeding any fairness or completeness justification, is apparent based on the sheer volume of deposition testimony Abraxis counter-designated. For example, Abraxis offers 500 lines of counter-designated testimony as "completeness" for these 4 lines of testimony designated by Elan:

> Q - When you had finished lyophilizing the samples, where did you take them to?
>
> A - I told Dr. Berkland that the samples he requested are ready.

See Exhibit 8-GG, Abraxis' Objections and Counter-Designations of Deposition Testimony, Witness: Lianjun Shi (Abraxis' counter designations to Elan's designations of 103:21:23 and 103:25-104:1.)[1] The same 500 lines of counter-designated testimony are offered against numerous portions of Dr. Shi's deposition. Overall, Elan designated 428 lines from Dr. Lianjun Shi's deposition. Abraxis counter-designated 742 lines of Dr. Shi's deposition testimony - almost double Elan's designations.

Abraxis' over designation of deposition testimony is also evidenced by Abraxis' cherry-picking virtually every statement in the deposition that could, arguably, be *remotely* related to Elan's designated portions, even counter designating deposition testimony from as far

[1] Abraxis made the following counter-designations to this testimony: 50:24-25; 51:2-6; 53:3-54:2; 54:5-55:11; 56:10-24; 57:25-58:2; 58:4-7; 58:9-17; 58:19-23: 58:25-59:1; 61:3-11; 61:13; 62:10-13; 62:15; 62:21-23; 62:25; 73:1-3; 73:5-7; 73-9; 77:21-78:9; 78:11-12; 78:14 79:10-12; 80:7-8; 80:15-81:13; 81:15-18; 81:23-82:1; 92:1-6; 92:8-14; 92:16-93:2; 93:21-25; 94:1-18; 94:20-95:19; 96:9-97:16; 97:18-98:16; 98:18-23; 98:25-99:8; 100:4-101:23; 102:1-5; 102:7-16; 102:18-103:2; 103:4-8; 109:22-110:2; 110:4-110:13; 110:15; 111:2-3; 111:5-112:2; 112:4-8; 114:9-11; 114:13-25; 115:3-8; 115:10-116:8; 116:10-13; 116:15; 122:6-10; 122:12-16; 124:19-22; 124:24; 125:20-126:2; 126:4-6; 126:8-13; 127:25-128:1; 128:3-13; 128:15-16; 129:9-11; 129:13-17; 129:19; 157:19-21; 157:23.

away as 283 pages. *See* Exhibit 8-AA, Abraxis' Objections and Counter-Designations of Deposition Testimony, Witness: Patrick Soon-Shiong, Abraxis' counter designation of lines 18:22-23 and 8:25-19:22 against Elan's designations at 302:2-15 (The testimony on page 302 is not "redirect" testimony.)

Elan objects to Abraxis' efforts to introduce deposition testimony that is neither explanatory nor relevant to Elan's designated portions. *See Soures*, 736 F.2d at 91 ("The Rule does not require introduction of portions of a statement that are neither explanatory of nor relevant to the passages that have been admitted.").

Elan further objects to Abraxis' attempts to admit inadmissible testimony under the guise of the "rule of completeness." *See Phoenix Associates III v. Stone*, 60 F.3d 95, 103 (2d Cir. 1995 ("Rule 106 'does not compel admission of otherwise inadmissible hearsay evidence.'" (citing *U.S. Football League v. Nat'l Football League*, 842 F.2d 1335, 1375-76 (2d Cir. 1988))).

Finally, Elan objects to Abraxis' counter designations as a transparent effort to prevent Elan from presenting its case without undue interruption or distractions as permitted by common law and Federal Rule of Evidence 611(b). *See Blue Cross and Blue Shield of New Jersey, Inc.*, 199 F.R.D. 487, 490 (E.D.N.Y. 2001).

RESPONSE TO ELAN'S GENERAL OBJECTIONS TO ABRAXIS'S COUNTER DESIGNATIONS

Abraxis's Response:

Elan correctly states that a counter designation is proper "'if it is necessary to (1) explain the admitted portion, (2) place the admitted portion in context, (3) avoid misleading the trier of fact, or (4) insure a fair and impartial understanding,'" but then proceeds to ignore that standard in objecting to Abraxis's counter designations. That is, Elan does *not* dispute that Abraxis's counter designations are necessary to (1) explain the admitted portion, (2) place the admitted portion in context, (3) avoid misleading the trier of fact, or (4) insure a fair and impartial understanding. Instead, Elan argues that Abraxis's counter designations should be rejected because of their "volume" and because they are "far away" from Elan's designations. But the "volume" and location of counter designations are not factors in determining the "fairness" of presenting counter designations at the same time as affirmative designations.

Elan's "volume" objection misses the mark. Elan takes the example of Abraxis's Lianjun Shi designations and misconstrues them as 500 lines "offered against" four lines of testimony.[1] Rather, Abraxis's counter designations were made on a topic-by-topic basis, and Elan admits these same designations are offered by Abraxis against "numerous portions of Dr. Shi's deposition" on the same topic.[2] Thus, Abraxis's counter designations are a set of testimony that completes the set of testimony designated by

[1] In this example, Elan asked Dr. Shi about one experimental step in a procedure he performed without referencing all of the steps of the procedure he performed. If any of this testimony is to be played to the jury, fairness requires Dr. Shi's complete testimony regarding the procedure. Note, too, that the necessary counter designations for the Shi deposition were by far and away the most voluminous of Abraxis's counter designations.

[2] The amount of testimony counter designated by Abraxis was increased by Elan's deposition practice of repeatedly asking the same questions throughout the deposition in the hopes of eventually obtaining an answer that better suited its purposes.

Elan, and should be shown to the jury as such at the same time as Elan's selected testimony to avoid misleading the jury and insure a fair and impartial understanding of the designated deposition testimony in context.

Elan's objection that the location of Abraxis's counter designations during the depositions renders them unfair is similarly unfounded. The location of a counter designation does not determine whether it should be played at the same time for completeness. While Elan apparently disputes the *degree* of relevance of Abraxis's counter designations, it admits that Abraxis's designations *are* relevant. Any specific questions of fairness or completeness should be brought to the Court's attention and addressed case-by-case, not decided *en masse* based on the red herrings of volume or location without reference to the specific designations and counter designations.

Moreover, Abraxis's counter designations are expressly permitted under Federal Rule of Civil Procedure 32(a)(6), which states if only part of a deposition is offered "any party may itself introduce any other parts." While Elan objects to the timing of the presentation of Abraxis's counter designations, it cannot block their admission.

The cases cited by Elan do not hold that the sheer volume or location of counter designations can render them unfair to present at the same time. In *U.S. v. Noble*, the Third Circuit held that the district court did not abuse its discretion by refusing to admit the remainder of "stream-of-consciousness" prison letters that did not explain or put into context the portions admitted. 251 Fed. Appx. 792, 799 (3d Cir. 2007). In *U.S. v. Soures*, the Third Circuit held that the district court had properly excluded some excerpts from a witness's second day of grand jury testimony only after careful review of the substance of the testimony and concluding it was not necessary. 736 F.2d 87, 91 (3d. Cir.

1984). Neither case holds that volume or location are factors under F.R.C.P. 32(a)(6) or F.R.E. 106. Here, of course, Elan has not disputed relevance. Nor could it.

Elan's reliance on *Phoenix Associates III v. Stone,* 60 F.3d 95, 103 (2d Cir. 1995) is also not well considered. It would be unfair to introduce portions of testimony designated by Elan that are incomplete and misleading while excluding explanatory testimony based on other evidentiary objections. As the D.C. Circuit has stated:

> Rule 106 can adequately fulfill its function only by permitting the admission of some otherwise inadmissible evidence when the court finds in fairness that the proffered evidence should be considered contemporaneously. A contrary construction raises the specter of distorted and misleading trials, and creates difficulties for both litigants and the trial court.

U.S. v. Sutton, 801 F.2d 1346, 1368 (D.C. Cir. 1986); *see also U.S. v. Le Fevour*, 798 F.2d 977, 981 (7th Cir. 1986) ("If otherwise inadmissible evidence is necessary to correct a misleading impression, then either it is admissible for this limited purpose by force of Rule 106…or, if it is inadmissible (maybe because of privilege), the misleading evidence must be excluded too.").

ELAN'S REPLY IN SUPPORT OF ITS GENERAL OBJECTIONS TO ABRAXIS'S COUNTER-DESIGNATIONS

A. Elan generally objects that Abraxis's counter-designations violate Federal Rule of Civil Procedure 32(a)(4) and Federal Rule of Evidence 106.

Abraxis mischaracterizes Elan's general objections as pertaining only to the volume and location of Abraxis's counter-designations. To the contrary, Elan objects that Abraxis's counter-designations violate Federal Rule of Civil Procedure 32(a)(4) and Federal Rule of Evidence 106. The volume and location of Abraxis's counter-designations are merely emblematic of that violation.

Rule 32(a)(4) provides that "[i]f only part of a deposition is offered in evidence by the party, an adverse party may require the offeror to introduce any other part which *ought in fairness* to be considered with the part introduced." Fed. R. Civ. P. 32(a)(4) (emphasis added). Similarly, Rule 106 provides that "[w]hen a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part . . . or recorded statement which *ought in fairness* to be considered contemporaneously with it." Fed. R. Evid. 106 (emphasis added). Thus, both Rule 32(a)(4) and Rule 106 contemplate that an adverse party may interrupt or distract from its opponent's case *only* if fairness so demands. *See Blue Cross and Blue Shield of New Jersey, Inc.*, 199 F.R.D. 487, 490 (E.D.N.Y. 2001). Abraxis's counter-designations are not justified by any fairness considerations. Rather, Abraxis's counter-designations:

- are irrelevant to Elan's designated portion of testimony;
- do not explain Elan's designated portion of testimony;
- do not place Elan's designated portion of testimony in context;
- do not correct misleading evidence; and

- do not ensure a fair and impartial understanding of Elan's designated portion of testimony.

As such, they are not permitted under the rules. *See U.S. v. Noble*, 251 Fed. Appx. 792, 798 (3d Cir. 2007); *U.S. v. Sources*, 736 F.2d 87,91 (3d Cir. 1984). Moreover, contrary to Abraxis's assertion otherwise, Elan does not seek an *en masse* decision as to the fairness of Abraxis's counter-designations. Elan lodged specific objections to each improper designation pursuant to the Federal Rules of Evidence. Elan's general objections merely provide an explanation as to the reasons why Elan was compelled to lodge *so many* specific objections.

B. Abraxis's counter-designations are almost uniformly irrelevant to Elan's designated portion of testimony.

That Abraxis's counter-designations violate Rules 32(a)(4) and 106 can be easily demonstrated. For example, Elan designated the following testimony:

> Q: When you finished lyophilizing the samples, where did you take them?
>
> A: I told Dr. Berkland that the samples he requested are ready.

In response to this simple exchange, Abraxis counter-designated 500 lines of testimony, including the following representative testimony.1

> Q: Okay, so your testimony earlier, when you spoke of disposing something in the waste glass box, you threw out the vials?
>
> A. Yeah . . .
>
> Q: The glass vials?
>
> A: Yeah, I clean it. Clean it, yeah.

[1] *See* Exh. 8-GG, Abraxis's Objections and Counter-Designations of Deposition Testimony, Witness Lianjun Shi (Abraxis's counter to Elan's designations of 103:21-23, 103:25-104:1.

Q: And threw them out?

A: Right.

Q: And is it your testimony today that you don't know the location of the cardboard packaging around the vials?

A: I can't remember. I just remember I read this paper.

****

Q: Maybe I'm not being clear. Do you know the condition that the bottles of Abraxane—

A: Uh-huh

Q: —were stored before you received them?

A: No.

Q: Do you know how Dr. Berkland stored the vials before you received them?

A: No.

****

Q: Did you do any testing to establish the purity of the second set of samples?

A: I didn't do that. That's—that was not my job.

Q: Are you aware whether Dr. Berkland did any purity testing on the second set of samples?

A: No idea. I didn't know that.

****
****

Most, if not all, of Abraxis's counter-designations—including those to Elan's designated portions of testimony from other deponents—are in a similar vein to those above, and are wholly irrelevant to the designation. As such, they have nothing to do with fairness, and should be stricken.

C. Abraxis should not be permitted to convert its improper counter-designations to affirmative designations at this late date.

Abraxis's defense of its counter-designations reveals a fundamental lack of understanding of the Federal Rules of Civil Procedure and Evidence. In its response to Elan's general objections, Abraxis states the following:

> Moreover, Abraxis's counter-designations are expressly permitted under Federal Rule of Civil Procedure 32(a)(6), which states if only part of a deposition is offered, any party may introduce other parts. While Elan objects to the timing of the presentation of Abraxis's counter-designations, it cannot block their admission.

See Response at p. 2. As a threshold matter, there is no Federal Rule of Civil Procedure 32(a)(6). Moreover, to the extent that Abraxis seeks to counter-designate testimony in response to Elan's designations, such testimony is only admissible pursuant to Federal Rule of Civil Procedure 32(a)(4) and Federal Rule of Evidence 106, which address the contemporaneous admission of testimony. If Abraxis wanted to affirmatively designate testimony to present during its case, then it was required to timely do so. Indeed, Elan provided Abraxis with its general objections in ample time for Abraxis to revise its affirmative deposition designations and counter-designations prior to the parties' submission of the Joint Pre-Trial Order. With only weeks to trial, Abraxis should not now be permitted to convert its improper counter-designations into additional affirmative deposition designations. Such a conversion would unfairly prejudice Elan, who would be forced to take time away from pressing trial preparation matters to prepare counter-designations to Abraxis's "converted" counter-designations.

D. Conclusion

Abraxis's response is nothing more than a red herring designed to divert the Court's attention from the substantive issues raised by Elan's objections. As such, it should be disregarded by the Court. Elan requests that the Court sustain Elan's general and specific objections and, as warranted, strike Abraxis's counter-designations that are improper under Federal Rule of Civil Procedure 32(a)(4) and Federal Rule of Evidence 106.

EXHIBIT 8-A

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Patrick Soon Shiong

Deposition Designations: Patrick Soon Shiong

BEGIN (page:line)	END (page:line)
7:10	7:13
36:17	37:4
37:7	37:15
59:17	59:19
59:21	59:21
79:3	79:15
79:20	79:2**2**
85:15	86:7
86:9	86:12
86:14	86:17
86:19	86:20
93:1	93:11
93:13	93:16
93:18	93:18
121:6	121:7
121:9	121:15
121:18	122:1
123:11	123:14
124:9	124:24
215:12	215:13
215:21	216:13
216:16	216:23
217:4	217:25
223:20	223:24
224:8	224:14
226:24	228:4
230:5	230:13
234:8	234:13
235:3	235:6
235:13	235:15
235:17	235:17
237:18	238:23
237:25	238:20
238:22	239:14
239:23	239:25
241:7	241:12
264:18	264:22
302:2	302:15
306:4	306:14
306:21	307:7
309:14	309:19
310:4	310:6
338:25	340:10

EXHIBIT 8-AA

TO PRETRIAL ORDER

Abraxis's Objections and Counter-Designations of Deposition Testimony

Witness: Patrick Soon-Shiong

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
PATRICK SOON-SHIONG

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
36:17-37:4			45:7-10; 45:12-21; 74:11-18	• Designated testimony does not need explanation or context. • Proffered testimony found 8 and 37 pages after designated testimony does not further fairness or completeness. • (FRE 701) - Improper lay opinion. (45:7-10, 45:12-21) • (FRE 403) - cumulative • Depo. Obj. at 45:25 - "Move to strike as nonresponsvie."	
37:7-37:15			37:16-19; 37:21-38:5; 38:9-18; 41:13-17; 42:21-22; 42:23-43:5; 45:7-10; 45:12-21; 47:6-9; 47:12-24; 59:17-19; 59:21; 65:8-66:11; 80:21-81:6; 82:6-9; 82:11-19; 82:21-83:6; 83:8; 218:9-219:4	• Designated testimony does not need explanation or context. • Proffered testimony found 4, 5, 8, 10, 22, 28, 43, 45, and 181 pages after designated testimony does not further fairness or completeness. • Objection at 38:6 - "Move to strike as nonresponsvie." • Objection at 38:19-20 - "Move to strike the nonresponsvie portion."	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 701) - Improper lay opinion (42:21-43:5). • (FRE 701) - Improper lay opinion. (42:21-43:5) • (FRE 701) - Improper lay opinion. (47:6-9, 47:12-24) • Proffered testimony found 45 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Confusion - Counter-designated portion is a question asked by opposing counsel without deponent's response (41:13-17). • (FRE 611) - Vague and ambiguous - Counter-designated portion is a question asked by opposing counsel without deponent's response. (41:13-17) • (FRE 402) - Relevance - Counter-designated portion is a question asked by opposing counsel without deponent's response. (41:13-17). • (FRE 403) - cumulative • (FRE 401) - Relevance - Proffered testimony concerns identification of an exhibit not referenced in the designated portion against which offered. (59:17-19, 59:21)	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Depo. Obj. at 66:12 - "Move to strike as nonresponsvie." • (FRE 802) - Hearsay within Hearsay (66:5-11) • (FRE 701) - Improper lay opinion. (80:21-81:6) • Depo. Obj. at 81:7 - "Move to strike as nonresponsvie." • (FRE 701) - Improper lay opinion; improper legal opinion (218:9-219:4)	
86:9-86:12 86:14-86:17 86:19-86:20			Same counter-designations as for Elan designation 37:7-37:15	• Designated testimony does not need explanation or context. • Testimony found 48, 43, 41, 39, 27, 20, 5 and 3 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 132 pages after designated testimony does not further fairness or completeness. • Objection at 38:6 - "Move to strike as nonresponsvie." • Objection at 38:19-20 - "Move to strike the nonresponsvie portion."	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 701) Improper lay opinion • (FRE 701) - Improper lay opinion (42:21-43:5). • (FRE 701) - Improper lay opinion. (42:21-43:5) • (FRE 701) - Improper lay opinion. (47:6-9, 47:12-24) • Proffered testimony found 45 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Confusion - Counter-designated portion is a question asked by opposing counsel without deponent's response (41:13-17). • (FRE 611) - Vague and ambiguous - Counter-designated portion is a question asked by opposing counsel without deponent's response. (41:13-17) • (FRE 402) - Relevance - Counter-designated portion is a question asked by opposing counsel without deponent's response. (41:13-17). • (FRE 403) - cumulative • (FRE 401) - Relevance - Proffered testimony concerns identification of an exhibit not referenced in the	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				designated portion against which offered. (59:17-19, 59:21) • Depo. Obj. at 66:12 - "Move to strike as nonresponsvie." • (FRE 802) - Hearsay within Hearsay (66:5-11) • (FRE 701) - Improper lay opinion. (80:21-81:6) • Depo. Obj. at 81:7 - "Move to strike as nonresponsvie." • (FRE 701) - Improper lay opinion; improper legal opinion (218:9-219:4)	
93:1-93:11 93:13-93:16 93:18-93:18			88:14-89:19; 90:8-12; 91:3-13; 91:20-22; 91:24-92:7; 92:9-11; 93:1-6; 93:20-95:25; 97:18-23; 137:9-138:1	• Designated testimony does not need explanation or context. • Proffered testimony found 4, 3 and 2 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Cumulative • Counter-designation of the same portion of the testimony against which its s proffered does not further the "rule of completeness" or fairness. (93:1-6) • Proffered testimony found 4 pages after designated testimony does	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				not further fairness or completeness.	
121:9-121:15			120:12-14; 120:16; 120:19-121:5; 278:16-279:2; 282:16-17; 282:19-283:13; 284:17-285:25	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative • Proffered testimony found 156, 160 and 163 pages after designated testimony does not further fairness or completeness.	
121:18-122:1			Same counter-designations as for Elan designation 121:9-121:15	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative • Proffered testimony found 156, 160 and 163 pages after designated testimony does not further fairness or completeness.	
124:9-124:24			123:15-22; 123:24-124:2; 124:4-7	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative	
216:16-216:23	Vague and ambiguous, (FRE 403) (216:22-23;			• Prior designated testimony provides clarity and context to designated portion.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
	217:4-6)			• Probative value of testimony regarding Abraxis' knowledge of patent-in-suit outweighs prejudicial, confusing, or misleading effect.	
217:4-217:25	Vague and ambiguous, (FRE 403) (216:22-23; 217:4-6)			• Prior designated testimony provides clarity and context to designated portion. • Probative value of testimony regarding Abraxis' knowledge of patent-in-suit outweighs prejudicial, confusing, or misleading effect.	
217:4-217:25			241:13-18; 241:21-242:6; 242:12-16; 242:20-243:8	• Designated testimony does not need explanation or context. • Proffered testimony found 24 and 25 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 243:9 - "Move to strike as nonresponsvie." • Depo. Obj. at 242:7 - "Move to strike as nonresponsvie."	
224:8-224:14			218:9-219:4; 230:14-231:2	• Designated testimony does not need explanation or context. • Proffered testimony found 6 pages before designated testimony does	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				not further fairness or completeness. • Proffered testimony found 6 pages after designated testimony does not further fairness or completeness.	
226:24-228:4			218:9-219:4	• Designated testimony does not need explanation or context. • Proffered testimony found 8 pagers before designated testimony does not further fairness or completeness.	
230:5-230:13			Same counter-designations as for Elan designation 226:24-228:4	• Designated testimony does not need explanation or context. • Proffered testimony found 11 pagers before designated testimony does not further fairness or completeness.	
234:8-234:13			Same counter-designations as for Elan designation 226:24-228:4	• Designated testimony does not need explanation or context. • Proffered testimony found 15 pages before designated testimony does not further fairness or completeness.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Proffered testimony is not relevant to designated portion.	
235:3-235:6			Same counter-designations as for Elan designation 226:24-228:4	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative	
235:17-235:17			235:19-236:5; 236:17-19; 236:23-237:4; 237:6-17	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative	
237:18-238:23			Same counter-designations as for Elan designation 235:17-235:17	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative	
237:25-238:20			Same counter-designations as for Elan designation 235:17-235:17	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative	
238:22-239:14			239:15-22	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 403) Cumulative	
239:23-239:25			240:1-241:6	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative	
264:18-264:22			263:15-264:17; 264:25-265:17	• Designated testimony does not need explanation or context. • (FRE 801) - Hearsay within Hearsay • Depo. Obj. at 265:18 - "Move to strike a[s] nonresponsvie."	
302:2-302:15			18:22-23; 18:25-19:22; 140:19-141:14; 300:22-301:11; 301:18-24; 303:14-15; 303:18; 303:20-25	• Designated testimony does not need explanation or context. • Proffered testimony found 161 and 283 pages before designated testimony does not further fairness or completeness. • (FRE 403) Cumulative	
338:25-340:10	Irrelevant, FRE 403			• (FRE 104(b)) conditional relevancy; reserved for Elan's rebuttal case	

EXHIBIT 8-B

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Neil Desai

Deposition Designations: Neil Desai

BEGIN (page:line)	END (page:line)
9:3	9:6
11:17	11:18
12:10	12:11
14:21	16:3
16:23	17:11
17:19	17:23
26:5	26:8
26:21	26:24
28:24	29:2
31:19	31:19
33:20	34:4
39:2	39:5
39:9	39:15
41:21	41:24
42:15	42:23
43:01	43:21
45:14	45:19
46:13	46:15
46:20	47:16
48:11	48:19
50:6	50:8
50:10	50:10
50:19	50:23
51:5	51:7
52:12	52:22
53:10	53:19
54:14	55:02
56:9	56:18
56:20	56:21
82:14	82:16
82:25	83:13
103:14	103:15
103:21	104:01
105:7	105:11
105:13	105:13
106:11	106:14
106:22	106:24
107:10	107:11
107:13	107:13
108:7	108:12
108:18	108:22
108:25	109:7
110:2	110:21
111:23	111:25
112:22	112:24
113:1	113:3
113:5	113:9
121:25	122:07
122:15	123:04
128:16	129:2

133:17	133:20
136:11	136:11
147:2	147:6
148:1	148:4
148:9	148:14
148:16	148:22
149:14	149:17
150:3	150:6
151:16	151:21
152:23	153:5
153:9	153:11
156:7	156:9
156:15	156:16
157:5	157:8
157:13	157:23
158:11	158:15
158:17	158:20
164:12	164:19
179:2	179:7
179:9	179:16
179:18	179:19
180:3	180:7
184:20	185:10
185:12	185:13
187:21	187:24
188:7	188:14
188:16	188:16
193:10	193:16
194:20	195:9
195:11	195:25
196:9	196:11
197:7	197:16
197:17	197:23
198:7	198:9
198:23	199:2
201:2	201:9
203:8	203:10
203:13	203:19
203:20	204:2
204:9	204:16
209:2	209:7
212:14	212:23
213:17	213:23
219:5	219:12
221:11	222:8
223:4	223:5
223:14	224:7
224:9	224:18
226:3	227:4
227:6	227:17
228:15	228:17
228:19	228:19
230:12	231:2
231:5	231:7

238:9	238:12
239:7	239:10
259:7	259:10
260:21	260:25
261:7	261:15
261:18	261:25
263:2	263:10
265:25	266:6
271:11	271:13
271:17	271:20
275:5	275:19
276:3	276:12
276:20	276:22
277:1	277:9
277:11	277:18
277:20	277:24
278:1	278:12
308:10	308:20

EXHIBIT 8-BB

TO PRETRIAL ORDER

Abraxis's Objections and Counter-Designations of Deposition Testimony

Witness: Neil Desai

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
NEIL DESAI

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
14:21-16:3			53:20-54:7	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 39 pages after designated testimony does not further fairness or completeness.	
16:23-17:11			16:4-22	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (FRE 403) - Needless presentation of cumulative evidence.	
26:5-26:8			26:2-4	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony.	
33:20-34:4			33:14-19	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
46:13-46:15			47:21-48:3; 48:5-7; 48:20-25; 291:24-292:21; 292:23-25	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (FRE 802) - Hearsay within Hearsay (48:20-25) • Depo. Obj. at 292:22 - (FRE 611(a)) - Leading the witness	
46:20-47:16			Same counter-designation as for Elan designation 46:13-46:15	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 802) - Hearsay within Hearsay (48:20-25) • Depo. Obj. at 292:22 - (FRE 611(a)) - Leading the witness	
48:11-48:19			Same counter-designation as for Elan designation 46:13-46:15	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (FRE 802) - Hearsay within Hearsay (48:20-25) • Depo. Obj. at 292:22 - (FRE 611(a)) - Leading the witness	
50:10-50:10			293:2-294:2; 294:4-5	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Depo. Obj. at 294:3 - (FRE 611(a)) - Leading the witness.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
51:5-51:7			294:11-295:1; 295:4-15	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
52:12-52:22			53:20-54:7	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
108:7-108:12			108:13-17	• (FRE 403) Cumulative - counter designated testimony 108:7-12 is already designated by Elan. • (FRE 802) - Hearsay within Hearsay (108:12-17) • (FRE 611(a)) - Assumes Facts not in evidence • (FRE 602) - Lack of Foundation • Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony.	
108:18-108:22			108:7-17	• Designated testimony does not need explanation or context. • (FRE 801) - Hearsay within Hearsay 108:12-17 • (FRE 611(a)) - Assumes Facts not in evidence • (FRE 602) - Lack of Foundation	
108:25-109:7			262:1-11	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 154 pages after designated testimony does not further fairness or completeness.	
110:2-110:21			Same counter-designation as for Elan designation 108:25-109:7	• Designated testimony does not need explanation or context. • Proffered testimony does not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				further explain designated testimony. • Proffered testimony found 153 pages after designated testimony does not further fairness or completeness.	
111:23-111:25			111:8-16; 112:8-21	• Designated testimony does not need explanation or context.	
113:5-113:9			262:1-9	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 149 pages after designated testimony does not further fairness or completeness. • (FRE 403) - Confusing - Proffered portion only includes an incomplete answer	
121:25-122:07	irrelevant, FRE 403?			• Probative value of Abraxis' selection of which data to provide	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				FDA during approval process and which images to withhold outweighs prejudicial, confusing, or misleading effect. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
128:16-129:2			127:22-128:1; 128:8-15; 129:15-17; 129:19-24; 133:6-16	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (FRE 602) - Lack of Personal Knowledge • Proffered testimony found 4 pages after designated testimony does not further fairness or completeness.	
147:2-147:6	FRE 403, subject to motion in limine			• Motion in limine will be addressed in Elan's response to Abraxis' motion in limine. • Evidence that FDA does not accept Abraxis' representation that paclitaxel in Abraxane amorphous make the existence of a fact of	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
148:1-148:4	FRE 403, subject to motion in limine			• Motion in limine will be addressed in Elan's response to Abraxis' motion in limine. • Evidence that FDA does not accept Abraxis' representation that paclitaxel in Abraxane amorphous make the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
148:9-148:14	FRE 403, subject to motion in limine			• Motion in limine will be addressed in Elan's response to Abraxis' motion in limine. • Evidence that FDA does not accept Abraxis' representation that paclitaxel in Abraxane amorphous make the existence of a fact of consequence to the determination of the action more likely.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
148:16-148:22	FRE 403, subject to motion in limine			• Motion in limine will be addressed in Elan's response to Abraxis' motion in limine. • Evidence that FDA does not accept Abraxis' representation that paclitaxel in Abraxane amorphous make the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
158:17-158:20			168:15-21; 168:23-24; 169:4-14; 169:15-16; 169:19; 169:23-25; 176:7-11; 177:6-12	• Designated testimony does not need explanation or context. • Proffered testimony found 10 and 18 pages after designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony. • (FRE 403) - Confusion - proffered	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				portion omits question and only designates answer (169:4-5)	
179:9-179:16 179:18-179:19			176:7-11; 177:6-12	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
180:3-180:7			179:21-180:1; 296:2-297:2; 300:6-22	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
184:20-185:10	irrelevant, confusing, FRE 402 and 403			• Evidence that Abraxis hired former Elan consultant during its development of Abraxane makes the existence of a fact of consequence to the determination of the action more likely.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
184:20-185:10			183:3-184:9; 184:15-19	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
185:12-185:13	irrelevant, confusing, FRE 402 and 403		Same counter-designation as for Elan designation 184:20-185:10	• Evidence that Abraxis hired former Elan consultant during its development of Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect. • Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
187:21-	irrelevant,			• Evidence that Abraxis hired	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
187:24	confusing, FRE 402 and 403			former Elan consultant during its development of Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
187:21-187:24			Same counter-designation as for Elan designation 184:20-185:10	• Designated testimony does not need explanation or context. • Proffered testimony found 4 pages before designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony.	
188:7-188:14	irrelevant, confusing, FRE 402 and 403			• Evidence that Abraxis hired former Elan consultant during its development of Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
188:7-188:14			Same counter-designation as for Elan designation 184:20-185:10	• Designated testimony does not need explanation or context. • Proffered testimony found 5 pages before designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony.	
188:16-188:16	irrelevant, FRE 403, vague, ambiguous			• Evidence that Abraxis hired former Elan consultant during its development of Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
193:10-193:16			193:17-22; 194:12-18; 198:10-12; 199:3-18	• Designated testimony does not need explanation or context.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Proffered testimony does not further explain designated testimony. • Proffered testimony found 5 and 6 pages after designated testimony does not further fairness or completeness.	
194:20-195:9	compound, vague, ambiguous (195:2-9)			• Prior designated testimony provides clarity and context to designated portion.	
194:20-195:9			Same counter-designation as for Elan designation 193:10-193:16	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 4 pages after designated testimony does not further fairness or completeness.	
195:11-195:25	compound, vague, ambiguous (195:11-13)			• Prior designated testimony provides clarity and context to designated portion.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
195:11-195:25			193:17-22; 194:12-18; 196:1-8; 198:10-12; 199:3-18; 296:13-297:14; 297:21-24; 300:6-22	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 4 pages after designated testimony does not further fairness or completeness. • (FRE 403) - Misleading. Only answer is designated without question for context. (297:21-24) • Depo. Obj. at 297:20 - (FRE 611(a)) Leading the witness • (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
196:9-196:11			193:17-22; 194:12-18; 195:21-196:8; 198:10-12; 199:3-18; 296:13-297:14; 297:21-24; 300:6-22	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Proffered testimony found 3 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Misleading. Only answer is designated without question for context. (297:21-24) • Depo. Obj. at 297:20 - (FRE 611(a) Leading the witness • (FRE 403) - Cumulative Counter designated testimony 195:21-25 is already designated by Elan. • (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
197:17-197:23			Same counter-designation as for Elan designation 196:9-196:11	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 3 and 4 pages before designated testimony does not further fairness or completeness.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
198:7-198:9			Same counter-designation as for Elan designation 196:9-196:11	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 3, 4 and 5 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
198:23-199:2			Same counter-designation as for Elan designation 196:9-196:11	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 3, 4 and 5 pages before designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony does not further fairness or completeness. • (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
201:2-201:9			Same counter-designation as for Elan designation 196:9-196:11	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 3, 6, 7 and 8 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
203:8-203:10	vague, ambiguous		193:17-22; 194:12-18; 195:21-196:8; 198:10-12; 199:3-18; 201:10-15; 201:18-202:21; 203:1-7; 296:13-	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
			297:14; 297:21-24; 300:6-22	• Proffered testimony found 4, 5, 8, 9 and 10 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Misleading. Only answer is designated without question for context. (297:21-24) • Depo. Obj. at 297:20 - (FRE 611(a)) Leading the witness • (FRE 403) - Cumulative Counter designated testimony 195:21-25 is already designated by Elan. • (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
203:13-203:19	vague, ambiguous (203:13-14)		Same counter-designation as for Elan designation 203:8-203:10	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 10 pages before designated testimony does not further fairness or completeness.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
203:20-204:2			Same counter-designation as for Elan designation 203:8-203:10	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 10 pages before designated testimony does not further fairness or completeness.	
204:9-204:16			193:17-22; 194:12-18; 195:21-196:8; 198:10-12; 199:3-18; 201:10-15; 201:18-202:21; 203:1-7; 204:3-8; 204:17-23; 296:13-297:14; 297:21-24; 300:6-22	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 5, 6, 9 and 11 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Misleading. Only answer is designated without question for context. (297:21-24) • Depo. Obj. at 297:20 - (FRE 611(a)) Leading the witness	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 403) - Cumulative Counter designated testimony 195:21-25 is already designated by Elan. • (FRE 403) - Proffered testimony regarding deposition exhibit 29 (300:6-22) is offered against unrelated testimony.	
219:5-219:12			195:21-196:8; 198:10-12; 198:18-22; 219:16-220:3;	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 21 and 24 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Proffered testimony regarding deposition exhibit 28 (198:18-22) is offered against testimony regarding deposition exhibit 29. • (FRE 403) - Proffered testimony regarding deposition exhibit 28 (198:10-12) is offered against testimony regarding deposition exhibit 29.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 403) - Proffered testimony regarding deposition exhibit 28 is offered against testimony regarding deposition exhibit 29 (195:21-196:8). • (FRE 403) - Cumulative Counter designated testimony 195:21-25 is already designated by Elan.	
221:11-222:8			195:21-196:8; 198:10-12; 198:18-22; 219:16-220:3; 296:13-297:14; 297:21-24; 300:6-22	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 23 and 26 pages before designated testimony does not further fairness or completeness. • (FRE 403) - Proffered testimony regarding deposition exhibit 28 (198:18-22) is offered against testimony regarding deposition exhibit 29. • (FRE 403) - Proffered testimony regarding deposition exhibit 28 (198:10-12) is offered against testimony regarding deposition	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				exhibit 29. • (FRE 602, 701) - Lack of Personal Knowledge; Speculation • (FRE 403) - Proffered testimony regarding deposition exhibit 28 (195:21-196:8) is offered against testimony regarding deposition exhibit 29. • (FRE 403) - Misleading. Only answer is designated without question for context. (297:21-24) • Depo. Obj. at 297:20 - (FRE 611(a) Leading the witness • (FRE 403) - Cumulative Counter designated testimony 195:21-25 is already designated by Elan.	
223:14-224:7	vague, ambiguous (224:4-7) –		294:7-295:1; 295:5-15	• Prior designated testimony provides clarity and context to designated portion. • Depo. Obj. at 295:2 - (FRE 611(a)) - Assumes Facts not in evidence; leading the witness	
224:9-224:18	vague, ambiguous		Same counter-designation as for	• Prior designated testimony provides clarity and context to	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
	(224:9-11)		Elan designation 223:14-224:7	designated portion. • Depo. Obj. at 295:2 - (FRE 611(a)) - Assumes Facts not in evidence; leading the witness	
226:3-227:4			227:18-22; 228:9; 294:7-295:1; 295:5-15	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (FRE 403) - Needless presentation of cumulative evidence. • (FRE 403) - Confusion - Designated portion is not complete; answer at 228:9 is given without question for context.	
227:6-227:17			Same counter-designation as for Elan designation 226:3-227:4	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
228:15-	vague, ambiguous		228:21-229:4	• Prior designated testimony provides clarity and context to	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
228:17				designated portion.	
228:19-228:19	vague, ambiguous		Same counter-designation as for Elan designation 228:15-228:17	• Prior designated testimony provides clarity and context to designated portion.	
230:12-231:2			111:8-16; 112:8-21	• Designated testimony does not need explanation or context. • Proffered testimony found 118 and 119 pages before designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony.	
259:7-259:10			262:1-11	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
260:21-260:25			Same counter-designation as for Elan designation	• Designated testimony does not need explanation or context.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
			259:7-259:10	• Proffered testimony does not further explain designated testimony.	
261:7-261:15			Same counter-designation as for Elan designation 259:7-259:10	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
261:18-261:25			Same counter-designation as for Elan designation 259:7-259:10	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
263:2-263:10			Same counter-designation as for Elan designation 259:7-259:10	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
265:25-266:6	FRE 403			• Probative value of Abraxis' representations to FDA outweighs	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				prejudicial, confusing, or misleading effect.	
265:25-266:6			Same counter-designation as for Elan designation 259:7-259:10	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 3 pages before designated testimony does not further fairness or completeness.	
271:11-271:13	FRE 403			• Probative value of Abraxis' representations to FDA outweighs prejudicial, confusing, or misleading effect.	
271:11-271:13			274:23-275:4	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
271:17-271:20	FRE 403			• Probative value of Abraxis' representations to FDA outweighs prejudicial, confusing, or misleading effect.	
271:17-271:20			262:1-11	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 9 pages before designated testimony does not further fairness or completeness.	
275:5-275:19	FRE 403			• Probative value of Abraxis' FDA submissions and Abraxis' cryo-TEM images outweighs prejudicial, confusing, or misleading effect.	
275:5-275:19			Same counter-designation as for Elan designation 271:17-271:20	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Proffered testimony found 13 pages before designated testimony does not further fairness or completeness.	
276:3-276:12	FRE 403			• Probative value of Abraxis' FDA submissions and Abraxis' cryo-TEM images outweighs prejudicial, confusing, or misleading effect.	
276:3-276:12			276:13; 276:15-19; 276:23-25	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
276:20-276:22	FRE 403			• Probative value of Abraxis' cryo-TEM images outweighs prejudicial, confusing, or misleading effect.	
276:20-276:22			Same counter-designation as for Elan designation 276:3-276:12	• Designated testimony does not need explanation or context. • Proffered testimony does not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				further explain designated testimony.	
277:11-277:18	FRE 403			• Probative value of Abraxis' cryo-TEM images outweighs prejudicial, confusing, or misleading effect.	
277:20-277:24	FRE 403			• Probative value of Abraxis' cryo-TEM images outweighs prejudicial, confusing, or misleading effect.	
278:1-278:12	FRE 403			• Probative value of Abraxis' FDA submissions outweighs prejudicial, confusing, or misleading effect.	
308:10-308:20	FRE 403			• Probative value of Abraxis' FDA submissions outweighs prejudicial, confusing, or misleading effect.	
308:10-308:20			309:25-310:22	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony.	
9:3 - 9:6					
197:7 - 197:16					
209:2 - 209:7	Irrelevant			• FRE 104(b) conditional relevancy, reserved for Elan's defense of counterclaims	
212:14 - 212:23			212:7 - 212:13	• Designated testimony does not need explanation or context	
31:19 - 31:19	Irrelevant, FRE 403, question fragment				
136:11 - 136:11	Irrelevant, FRE 403, question fragment				

EXHIBIT 8-C

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Michael Hawkins

Deposition Designations: Michael Hawkins (July 6, 2007)

BEGIN (page:line)	END (page:line)
9:18	9:22
10:2	10:6
47:5	48:2
48:16	49:1
49:14	49:16
70:13	71:15
73:5	73:13
79:20	80:24
104:17	104:19
104:21	104:23
108:20	109:7
109:9	109:23
112:15	112:19
112:23	113:11
113:15	113:23
114:14	115:10
115:25	116:5
117.5	117:7
117:25	118:10
119:5	119:10
125:24	126:6
126:9	127:6
127:8	127:12
127:24	128:4
128:18	128:21
134:24	135:8
141:15	142:16
142:18	143:2
143:4	143:4
182:5	182:18
183:7	183:17
185:22	186:9
186:17	187:8
188:23	189:1

EXHIBIT 8-CC

TO PRETRIAL ORDER

Abraxis's Objections and Counter-Designations of Deposition Testimony

Witness: Michael Hawkins

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
MICHAEL HAWKINS (JULY 6, 2007)

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
9:18-9:22			9:23-10:1; 21:1-3	• Designated testimony does not need explanation or context. • Proffered testimony found 12 pages after designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony.	
48:16-49:1			49:2-5; 49:7-9	• Designated testimony does not need explanation or context. • (FRE 403) - Cumulative	
49:14-49:16			Same counter-designation as for Elan designation 48:16-49:1	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
73:5-73:13			70:13-71:15	• Designated testimony does not need explanation or context. • (FRE 403) - Cumulative Counter designated testimony 70:13-71:15 s already designated by Elan.	
104:17-104:19	Vague, ambiguous, lack of foundation, FRE 403			• Prior designated testimony provides clarity and context. • Designated testimony, including 47:5-48:2, provides foundation. • Goes to credibility of witness. • Probative value outweighs prejudicial, confusing, or misleading effect.	
104:21-104:23	Vague, ambiguous, lack of foundation, FRE 403			• Prior designated testimony provides clarity and context. • Designated testimony, including 47:5-48:2, provides foundation. • Goes to credibility of witness.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Probative value outweighs prejudicial, confusing, or misleading effect.	
104:21-104:23	Vague, ambiguous, lack of foundation, FRE 403		110:20-23	• Proffered testimony is not relevant to designated portion. • Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 6 pages after designated testimony does not further fairness or completeness.	
108:20-109:7	Subject to motion in limine, irrelevant, FRE 402 and 403			• Motion in limine will be addressed in Elan's response to Abraxis' motion in limine. • Evidence that FDA does not accept Abraxis' representation that paclitaxel in Abraxane amorphous make the existence of a fact of consequence to the determination of	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
108:20-109:7			Same counter-designation as for Elan designation 104:21-104:23	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
109:9-109:23	Subject to motion in limine, irrelevant, FRE 402 and 403			• Motion in limine will be addressed in Elan's response to Abraxis' motion in limine. • Evidence that FDA does not accept Abraxis' representation that paclitaxel in Abraxane amorphous make the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
112:15-112:19	Irrelevant, confusing, FRE 402 and 403			• Evidence that Abraxis' representations to FDA regarding paclitaxel in Abraxane make the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
112:15-112:19			111:7-21	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
112:23-113:11	Irrelevant, confusing, FRE 402 and 403			• Evidence that Abraxis' representations to FDA regarding paclitaxel in Abraxane make the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				outweighs prejudicial, confusing, or misleading effect.	
112:23-113:11			Same counter-designation as for Elan designation 112:15-112:19	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
113:15-113:23	Irrelevant, confusing, FRE 402 and 403			• Evidence that Abraxis' representations to FDA regarding paclitaxel in Abraxane make the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
113:15-113:23			Same counter-designation as for Elan designation 112:15-112:19	• Designated testimony does not need explanation or context. • Proffered testimony is not relevant to designated portion. • Proffered testimony does not further explain designated testimony.	
114:14-115:10	Irrelevant, confusing, FRE 402 and 403			• Evidence that Abraxis' representations to FDA regarding paclitaxel in Abraxane make the existence of a fact of consequence to the determination of the action more likely.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
114:14-115:10			Same counter-designation as for Elan designation 112:15-112:19	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
126:9-127:6	Irrelevant, confusing, FRE 402 and 403			• Evidence of Abraxis' public statements regarding composition of Abraxane make the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
127:8-127:12			127:20-23	• Designated testimony does not need explanation or context. • Proffered testimony does not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				further explain designated testimony.	
127:24-128:4			128:5-17	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
128:18-128:21			128:22-129:12	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
182:5-182:18			182:19-183:6	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
183:7-183:17			183:18-25	• Designated testimony does not need explanation or context.	
185:22-186:9	Irrelevant, confusing, FRE 402 and 403			• Goes to credibility of witness. • Probative value outweighs prejudicial, confusing, or misleading effect.	
186:17-187:8			187:13-21	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony is not relevant to designated portion.	
188:23-189:1	Irrelevant, confusing, FRE 402 and 403			• Goes to credibility of witness. • Probative value outweighs prejudicial, confusing, or misleading effect.	

EXHIBIT 8-D

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Ulagaraj Selvaraj

Deposition Designations: Ulagaraj Selvaraj (July 27, 2007)

BEGIN (page:line)	END (page:line)
8:2	8:13
9:3	9:15
12:22	13:4
24:19	24:25
27:5	27:16
28:22	29:1
29:19	29:21
30:20	31:4
31:7	31:12
31:20	31:23
32:4	32:9
59:3	59:20
59:23	60:7
60:11	60:14
60:18	60:21
60:25	61:11
98:21	100:3
109:24	110:13
110:18	110:18
110:25	111:5
111:7	111:9
112:9	112:14
119:24	120:13
125:16	125:18
125:20	126:2
126:5	126:9
126:11	126:12
126:14	126:14
126:16	126:19
126:21	126:25
129:19	129:23
130:6	130:14
132:20	133:5
136:7	136:9
136:13	137:4
137:9	137:12
137:15	137:23
137:25	138:8
138:10	138:13
141:1	141:2
141:4	141:14
141:16	141:17
141:25	142:4
144:11	144:12
144:14	144:24
158:8	158:17
161:14	162:5
169:25	170:12
171:3	171:5
171:20	172:4

175:10	176:19
177:11	178:7
180:5	180:10
180:17	181:8
181:18	181:23
181:25	182:16
187:17	187:23
188:5	188:11
190:9	190:12
192:8	192:9
192:11	192:19
192:21	192:21
198:6	199:7
199:10	199:25
200:2	200:3
206:16	207:4
207:6	207:17
207:19	207:22
207:24	208:1
209:21	209:25
210:2	210:4

EXHIBIT 8-DD

TO PRETRIAL ORDER

Abraxis's Objections and Counter Designations of Deposition Testimony

Witness: Ulagaraj Selvaraj

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
ULAGARAJ SELVARAJ

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
9:3-9:15			9:16-11:8; 11:11-12:21	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (FRE 403) Cumulative	
12:22-13:4			13:5-14; 13:20-14:4; 16:5-13	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
24:19-24:25			22:2-20; 24:1-19; 40:13-19; 40:21-41:5	• Proffered testimony found 16 pages after designated testimony does not further fairness or completeness. • Designated testimony does not need explanation or context.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
27:5-27:16			12:22-13:4; 13:20-14:4; 16:5-13; 25:1-15; 27:1-4	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 15, 13, and 11 pages before designated testimony does not further fairness or completeness. • (FRE 403) Cumulative Counter designated testimony 12:22-13:4 is already designated by Elan.	
28:22-29:1			13:5-14; 13:20-14:4, 16:5-13	• Designated testimony does not need explanation or context. • Proffered testimony found 15, 14, and 12 pages before designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony.	
29:19-29:21			29:22-24; 30:1-5	• Designated testimony does not need explanation or context.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
30:20-31:4			30:11-15	• Designated testimony does not need explanation or context.	
31:20-31:23			31:13-18; 33:24-34:11	Elan inadvertently omitted line 31:19 from its designations. Elan's designations have been amended to include 31:19. • Designated testimony does not need explanation or context.	
32:4-32:9			Same counter-designation as for Elan designation 31:20-31:23	• Designated testimony does not need explanation or context.	
59:3-59:20			58:15-18; 58:22-23; 58:25-59:2; 139:15-16; 139:18-19; 139:24-25; 140:2-3; 140:5-13	• Proffered testimony found 80 pages after designated testimony does not further fairness or completeness. • Designated testimony does not need explanation or context.	
59:23-60:7			139:15-16; 139:18-19; 139:24-25;	• Proffered testimony found 80 pages after designated testimony does not further fairness or	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
			140:2-3; 140:5-13	completeness. • Designated testimony does not need explanation or context.	
60:11-60:14 60:18-60:21			60:22-24; 61:15-21; 62:4-21; 63:8-11	• Designated testimony does not need explanation or context.	
109:24-110:13	vague, ambiguous, (110:12-13), irrelevant, FRE 403			• Evidence of Abraxis' knowledge of paclitaxel's properties makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
110:18-110:18	vague, ambiguous, (110:18), irrelevant, FRE 403			• Evidence of Abraxis' knowledge of paclitaxel's properties makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
110:25-111:5	vague, ambiguous, irrelevant, FRE 403			• Evidence of Abraxis' knowledge of paclitaxel's properties makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
111:7-111:9	vague, ambiguous, irrelevant, confusing, FRE 403			• Evidence of Abraxis' knowledge of paclitaxel's properties makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
112:9-112:14	irrelevant, FRE 403			• Evidence of Abraxis' knowledge of paclitaxel's properties makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
119:24-120:13	irrelevant, FRE 403			• Evidence of Abraxis' understanding of crystallinity makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
119:24-120:13			125:3-8	• Proffered testimony found 5 pages after designated testimony does not further fairness or completeness. • Designated testimony does not need explanation or context.	
125:16-125:18	irrelevant, FRE			• Evidence of Abraxis' understanding of crystallinity	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
	403			makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
125:16-125:18			125:3-15	• Designated testimony does not need explanation or context.	
125:20-126:2	irrelevant, FRE 403			• Evidence of Abraxis' understanding of crystallinity makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
126:5-126:9	irrelevant, FRE 403			• Evidence of Abraxis' understanding of crystallinity makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
126:11-126:12	irrelevant, FRE 403			• Evidence of Abraxis' understanding of crystallinity makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
126:14-126:14	irrelevant, FRE 403			• Evidence of Abraxis' understanding of crystallinity makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
126:16-126:19	irrelevant, FRE 403			• Evidence of Abraxis' understanding of crystallinity makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
126:21-126:25	irrelevant, FRE 403			• Evidence of Abraxis' understanding of crystallinity makes the existence of a fact of consequence to the determination	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
132:20-133:5	Secret Abraxane Manufacturing Information			• Secret Abraxane Manufacturing Information provides to basis at law to exclude evidence	
136:7-136:9	vague, ambiguous, FRE 403			• Evidence Abraxis possessed knowledge about Elan's patents during the time Abraxis' was developing Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
136:7-136:9			136:11	**Elan's Designations have been amended to include this portion.**	
136:13-137:4	vague and ambiguous antecedent basis, FRE 403			• Evidence Abraxis possessed knowledge about Elan's patents during the time Abraxis' was developing Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
137:9-137:12	vague and ambiguous antecedent basis, FRE 403			• Evidence Abraxis possessed knowledge about Elan's patents during the time Abraxis' was developing Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
137:15-137:23	vague and ambiguous antecedent basis, FRE 403			• Evidence Abraxis possessed knowledge about Elan's patents during the time Abraxis' was developing Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
137:25-138:8				• Designated testimony does not need explanation or context.	
138:10-138:13				• Designated testimony does not need explanation or context.	
141:1-141:2	vague, ambiguous, FRE 403			• Evidence Abraxis possessed knowledge about Elan's patents during the time Abraxis' was developing Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
141:4-141:14	vague, ambiguous, FRE 403			• Evidence Abraxis possessed knowledge about Elan's patents during the time Abraxis' was developing Abraxane makes the	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect	
141:4-141:14			186:6-9; 186:11-15	• Designated testimony does not need explanation or context. • Proffered testimony found 45 pages after designated testimony does not further fairness or completeness.	
141:16-141:17	vague, ambiguous, FRE 403			• Evidence Abraxis possessed knowledge about Elan's patents during the time Abraxis' was developing Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • Prior designated testimony provides clarity and context to designated portion. • Probative value of this evidence outweighs prejudicial, confusing,	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				or misleading effect.	
141:16-141:17			186:6-9; 186:11-15	• Designated testimony does not need explanation or context. • Proffered testimony found 45 pages after designated testimony does not further fairness or completeness.	
141:25-142:4	vague and ambiguous antecedent basis, FRE 403			Evidence Abraxis possessed knowledge about Elan's patents during the time Abraxis' was developing Abraxane makes the existence of a fact of consequence to the determination of the action more likely. • No objection made during deposition to preserve "vague and ambiguous" objection. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	
141:25-142:4			142:5-16; 186:6-9; 186:11-15	• Designated testimony does not need explanation or context. • Proffered testimony found 44 pages after designated testimony does not further fairness or completeness.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
144:14-144:24			138:15-139:4; 143:13-15; 143:17-144:5	• Designated testimony does not need explanation or context. • Proffered testimony found 5 pages before designated testimony does not further fairness or completeness.	
158:8-158:17			157:11-158:7; 158:18-25	• Designated testimony does not need explanation or context.	
161:14-162:5			145:7-12; 145:21-25; 147:5-22; 147:23-25; 148:2-6; 148:18-149:11; 149:13-23; 150:6-11; 151:2-9; 151:13-152:18; 153:6-19; 183:17-25	• Designated testimony does not need explanation or context. • Proffered testimony found 16, 13, 11, 9, and 8 pages before designated testimony does not further fairness or completeness.	
169:25-170:12			Same counter-designation as for Elan designation 161:14-162:5	• Designated testimony does not need explanation or context. • Proffered testimony found 24, 21, 20, 19, 17 and16 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 13 amd	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				21 pages after designated testimony does not further fairness or completeness.	
171:3-171:5			Same counter-designation as for Elan designation 161:14-162:5	• Designated testimony does not need explanation or context. • Proffered testimony found 26, 23, 21, 19 and 18 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 12 pages after designated testimony does not further fairness or completeness.	
177:11-178:7			145:7-12; 145:21-25; 147:5-22; 147:23-25; 148:2-6; 148:18-149:11; 149:13-23; 150:6-11; 151:2-9; 151:13-152:18; 153:6-19; 183:17-25; 176:24-177:7; 179:3-9	• Designated testimony does not need explanation or context. • Proffered testimony found 32, 29, 28 27, 25, and 24 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 5 pages after designated testimony does not further fairness or completeness.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
180:17-181:8			181:9-11; 181:13-16	• Designated testimony does not need explanation or context.	
181:25-182:16			176:24-177:7; 177:25-178:7; 182:20-22; 182:24-183:1; 185:21-186:5; 188:12-15; 188:17-25; 189:6-11; 189:14-17; 190:14-17; 190:22-191:2; 191:19-23; 191:25-192:7	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 4 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 6, 7, 9 and 10 pages after designated testimony does not further fairness or completeness.	
187:17-187:23			187:24-188:4	• Designated testimony does not need explanation or context.	
188:5-188:11			177:3-7; 177:25-178:7; 182:20-22; 182:24-183:1; 185:21-186:5; 188:12-15; 188:17-25; 189:6-11; 189:14-17; 190:14-17; 190:22-191:2;	• Designated testimony does not need explanation or context. • Proffered testimony found 11, 10, and 5 pages before designated testimony does not further fairness or completeness.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
			191:19-23; 191:25-192:7		
190:9-190:12			Same counter-designation as for Elan designation 188:5-188:11	• Designated testimony does not need explanation or context. • Proffered testimony found 13, 12, 8 and 5 pages before designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony.	
192:8-9 192:11-19 192:21-192:21			177:3-7; 177:25-178:7; 182:20-22; 182:24-183:1; 185:21-186:5; 188:12-15; 188:17-25; 189:6-11; 189:14-17; 190:14-17; 190:22-191:2; 191:19-23; 191:25-192:7	• Proffered testimony found 15, 14, 9, 6, 4 and 3 pages before designated testimony does not further fairness or completeness. • Designated testimony does not need explanation or context.	
200:2-200:3			200:5-8; 200:10-16	• Designated testimony does not need explanation or context.	
207:19-207:22			206:21-207:4; 207:6-7	• Designated testimony does not need explanation or context. • (FRE 403) Cumulative Counter designated testimony 206:21-	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				207:4 and 207:6-7 is already designated by Elan.	
210:2-210:4	Irrelevant, attorney colloquy, (FRE 403) (210:3-4)			<u>As to 210:2</u> • Evidence regarding Abraxis' representations to FDA regarding paclitaxel in Abraxane make the existence of a fact of consequence to the determination of the action more likely. • Probative value of this evidence outweighs prejudicial, confusing, or misleading effect.	

EXHIBIT 8-E

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Herbert Lee

Deposition Designations: Herbert Lee

BEGIN (page:line)	END (page:line)
9:23	10:7
11:5	11:15
11:20	11:24
12:13	12:16
12:21	13:1
13:4	13:13
14:1	14:14
28:3	28:13
29:2	29:16
29:18	30:4
30:19	30:24
31:2	31:11
34:5	34:12
34:14	34:14
57:21	58:18
59:10	59:14
59:18	60:5
64:9	64:15
64:18	66:5
66:22	66:25
71:10	71:22
71:25	72:4
73:17	73:21
73:23	74:9
74:16	74:20
75:2	75:11
75:18	75:22
75:25	76:19
77:19	77:20
78:8	78:22
78:24	78:24
128:23	129:10
129:12	129:12
129:19	129:25
130:2	130:3
131:15	131:22

EXHIBIT 19-EE

TO PRETRIAL ORDER

Abraxis's Objections and Counter-Designations of Deposition Testimony

Witness: Herbert Lee

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
HERBERT LEE DEPOSITION (MEDCOM 30(B)(6)) DESIGNATIONS

Abraxis objects to all of Elan's deposition designations of the Medcom Rule 30(b)(6) deposition by Herbert Lee as irrelevant and confusing and therefore barred under FRE 402 and 403.

Elan's Response

Herbert Lee's testimony is relevant to Elan's claim of induced infringement. The probative value of this testimony outweighs its prejudicial, confusing, or misleading effect.

Abraxis has not offered any counter-designations for Elan's designated portions of Herbert Lee's testimony.

EXHIBIT 8-F

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Leslie Louie

Deposition Designations: Leslie Louie

BEGIN (page:line)	END (page:line)
7:13	7:15
15:17	16:11
18:2	18:15
32:4	32:22
57:11	57:14
58:10	58:13
58:15	58:17
60:13	61:6
79:25	80:4
81:3	81:24
82:15	82:19
84:5	84:8
84:10	84:12
84:14	84:14
85:11	85:12
85:14	85:15
85:20	85:24
87:13	87:19
88:16	88:18
88:22	88:23
88:25	89:1
89:13	89:15
89:17	89:20
89:22	89:22
94:1	94:8
94:12	94:16
94:19	94:20
94:23	95:1
95:4	95:8
95:11	95:11
95:13	95:14
124:21	124:23
124:25	125:25
125:16	125:17
125:19	125:20
127:21	127:24
128:7	128:9
128:11	128:11
135:15	135:18
135:20	135:25

136:2	136:4
136:6	136:10
139:10	139:11
139:13	139:13
139:15	139:16
155:20	155:19
184:13	184:23
184:25	185:5
185:7	185:11
185:13	185:16
185:18	185:18
185:20	185:21
185:23	186:1
186:3	186:3
186:14	186:15
186:17	186:22
186:24	186:25
189:24	189:25
190:2	190:25
191:5	191:7
191:9	191:15
191:17	191:17
192:13	192:16
192:18	192:18
195:25	196:1
196:4	196:4
210:20	212:9

EXHIBIT 19-FF

TO PRETRIAL ORDER

Abraxis's Objections and Counter-Designations of Deposition Testimony

Witness: Leslie Louie

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
LESLIE LOUIE

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
82:15-82:19	Irrelevant, FRE 402 and 403			• Testimony provides foundation for subsequent designated testimony. • Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
84:5-84:8	Irrelevant, FRE 402 and 403			• Testimony provides foundation for subsequent designated testimony. • Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
84:10-84:12	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely.	

				• Probative value outweighs prejudicial, confusing, or misleading effect.	
84:14-84:14	Irrelevant, FRE 402 and 403			• Testimony provides foundation for subsequent designated testimony. • Probative value outweighs prejudicial, confusing, or misleading effect. • Prior designated testimony provides clarity and context to designated portion.	
85:11-85:12	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect..	
85:14-85:15	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect..	
85:20-85:24	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence	

				to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
85:20-85:24			85:17-24 87:7-8 87:10-11	• Designated testimony does not need explanation or context.	
87:13-87:19	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
87:13-87:19			87:20 87:22-88:3	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (602) - Lack of Personal Knowledge	
88:16-88:18	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs	

				prejudicial, confusing, or misleading effect.	
88:22-88:23	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
88:25-89:1	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
89:13-89:15	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
89:17-89:20	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action	

				more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
89:22-89:22	Irrelevant, FRE 402 and 403			• Evidence regarding Abraxis' development research makes the existence of a fact of consequence to the determination of the action more likely. • Probative value outweighs prejudicial, confusing, or misleading effect.	
95:13-95:14			95:20 95:22	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • (FRE 403) Cumulative	
124:21-124:23			124:6-8 124:11-12	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context.	
128:11-128:11			128:18-21	• Proffered testimony does not further explain designated testimony.	

			129:2-5 130:2-4 130:6-7 130:9-11	• Designated testimony does not need explanation or context. • (FRE 403) cumulative	
136:6-136:10			137:3-6 137:8 137:10-13	• Designated testimony does not need explanation or context.	
139:15-139:16			139:17-18 139:20-21	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context.	
184:13-184:23 184:25-185:5 185:7-185:11 185:13-185:16 185:18-185:18			193:15-18 193:20-194:1 194:25-195:2 195:5-13 195:19-20 195:22-23 196:6-8 197:10	• Proffered testimony found 7, 8, 10, 11, 37,40, 42, and 49 pages after designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (193:20-194:1) • (FRE 402) - Judge Sleet's PTO	

185:20-185:21 185:23-186:1 186:3-186:3			197:16 212:10-12 223:18-21 223:23 226:24-25 227:2-3 227:5-6 227:8 228:6-7 228:10 228:24-229:2 229:4 234:19-24 235:11-13 235:19-20 235:22-24	fn.6 - Attorney colloquy (196:6-8) • (FRE 402, 403) - Counter-designated portion is a question asked by opposing counsel without deponent's response. • (FRE 402) - Irrelevant (196:6-8) • (FRE 402) - Irrelevant (197:10-16) • (FRE 403) - Confusing (234:19-24)	
186:14-186:15			Same counter-designation as for Elan designation	• Proffered testimony found 7, 8, 10, 11, 37, 40, 42, and 49 pages after designated testimony does not	

186:17-186:22 186:24-186:25			184:13-184:23	further fairness or completeness. • Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (193:20-194:1) • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (196:6-8) • (FRE 402, 403) - Counter-designated portion is a question asked by opposing counsel without deponent's response. • (FRE 402) - Irrelevant (196:6-8) • (FRE 402) - Irrelevant (197:10-16) • (FRE 403) - Confusing (234:19-24)	
189:24-189:25 190:2-190:25			Same counter-designation as for Elan designation 184:13-184:23	• Proffered testimony found 4, 6, 8 34, 37, 38, and 45pages after designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • (FRE 402) - Judge Sleet's PTO	

				fn.6 - Attorney colloquy (193:20-194:1) • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (196:6-8) • (FRE 402, 403) - Counter-designated portion is a question asked by opposing counsel without deponent's response. • (FRE 402) - Irrelevant (196:6-8) • (FRE 402) - Irrelevant (197:10-16) • (FRE 403) - Confusing (234:19-24)	
191:5-191:7 191:9-191:15 191:17-191:17			Same counter-designation as for Elan designation 184:13-184:23	• Proffered testimony found 5, 35, 37 and 44 pages after designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (193:20-194:1) • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (196:6-8) • (FRE 402, 403) - Counter-designated portion is a question asked by opposing counsel without	

				deponent's response. • (FRE402) - Irrelevant (196:6-8) • (FRE 402) - Irrelevant (197:10-16) • (FRE 403) - Confusing (234:19-24)	
192:13-192:16 192:18-192:18			Same counter-designation as for Elan designation 184:13-184:23	<u>Offered Against Deposition Designation: 192:13-16; 192:18</u> • Proffered testimony found 4, 34, 36, and 43 pages after designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (193:20-194:1) • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (196:6-8) • (FRE 402, 403) - Counter-designated portion is a question asked by opposing counsel without deponent's response. • (FRE 402) - Irrelevant (196:6-8) • (FRE 402) - Irrelevant (197:10-16) • (FRE 403) - Confusing (234:19-	

				24)	
195:25-196:1 196:4-196:4			Same counter-designation as for Elan designation 184:13-184:23	• Proffered testimony found 31, 32, 40 and 41 pages after designated testimony does not further fairness or completeness. • Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (193:20-194:1) • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (196:6-8) • (FRE 402, 403) - Counter-designated portion is a question asked by opposing counsel without deponent's response. • (FRE 402) - Irrelevant (196:6-8) • (FRE 402) - Irrelevant (197:10-16) • (FRE 403) - Confusing (234:19-24)	
210:20-212:9			Same counter-designation as for Elan designation 184:13-184:23	• Proffered testimony found 17 pages after designated testimony does not further fairness or completeness. • Designated testimony does not need explanation or context.	

				• Proffered testimony does not further explain designated testimony. • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (193:20-194:1) • (FRE 402) - Judge Sleet's PTO fn.6 - Attorney colloquy (196:6-8) • (FRE 402, 403) - Counter-designated portion is a question asked by opposing counsel without deponent's response. • (FRE 402) - Irrelevant (196:6-8) • (FRE 402) - Irrelevant (197:10-16) • (FRE 403) - Confusing (234:19-24)	
32:4 - 32:22	Irrelevant, FRE 403 (waste of time); answer but no question 32:4-6); FRE 403, attorney colloquy (32:8-12, 21)			• FRE 401 Proffered testimony of knowledge and use of instrumentation to size particles has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of Abraxis' knowledge and use of instrumentation for particle size outweighs consideration of undue delay or waste of time.	
79:25 - 80:4	Irrelevant, FRE 403 (waste of			• FRE 401 Proffered testimony of knowledge and use of	

	time); blank line of transcript (79:25)			instrumentation to size particles has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of Abraxis' knowledge and use of instrumentation for particle size outweighs consideration of undue delay or waste of time.	
81:3 - 81:24	Irrelevant, FRE 403 (waste o time); FRE 403, attorney colloquy (81:9, 14,16-24); irrelevant, FRE 403 (answer but no question) (81:3)			• FRE 401 Proffered testimony of knowledge and use of instrumentation to size particles has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of Abraxis' knowledge and use of instrumentation for particle size outweighs consideration of undue delay or waste of time.	
155:20 - 155:19	Irrelevant, FRE 403, question fragment.				

EXHIBIT 8-G

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: **Lianjun Shi**

Deposition Designations: Lianjun Shi

BEGIN (page:line)	END (page:line)
11:5	11:7
11:17	11:21
13:15	13:16
13:18	13:21
14:16	14:23
15:25	16:1
16:3	16:9
17:5	17:6
17:12	17:13
24:19	24:21
24:23	24:24
31:13	31:14
31:16	32:7
32:9	32:15
32:17	32:21
39:24	40:1
40:6	40:23
41:3	41:5
41:10	41:12
41:14	41:16
41:21	41:25
42:17	42:24
43:8	43:13
43:15	43:16
44:1	44:3
44:5	44:7
44:16	44:21
44:23	45:3
49:21	49:24
50:1	50:10
50:12	50:17
63:1	63:13
65:8	65:11
65:15	65:17
66:20	66:21
66:23	67:7
67:9	67:21
78:15	78:16
78:18	79:9
80:7	80:8
80:10	80:12
80:14	80:19
81:1	81:13
81:15	81:21
81:23	82:1
83:5	83:10
88:2	88:4
88:6	88:17
89:5	89:11

89:13	89:15
92:13	92:14
92:16	92:22
93:21	94:17
97:2	97:12
97:25	98:8
103:21	103:23
103:25	104:1
108:24	108:25
109:2	109:3
109:7	109:21
110:16	110:19
110:21	111:1
124:25	125:1
125:3	125:19
135:9	135:12
135:14	135:16
145:12	145:14
145:16	146:1
146:5	146:7
147:23	147:24
148:1	148:8
155:2	155:12

EXHIBIT 8-GG

TO PRETRIAL ORDER

Abraxis's Objections and Counter-Designations of Deposition Testimony

Witness: Lianjun Shi

ELAN'S RESPONSE TO ABRAXIS OBJECTIONS TO LIANJUN SHI DEPOSITION DESIGNATIONS (JANUARY 7, 2008)

During his December 14, 2007 deposition, Elan's expert witness, Dr. Cory Berkland, testified that a post-doctoral student in his laboratory had provided routine assistance in preparing samples to be tested by Elan's expert witness, Dr. Munson. (Depo of Cory Berkland 73:12-74:10 (Dec. 14, 2007)) Abraxis demanded, and was given, an opportunity to depose Dr. Shi on January 7, 2008. Despite Abraxis' full opportunity to discover Dr. Shi's purely routine assistance, it now seeks to exclude Dr. Shi's testimony on grounds that it is "Untimely; violation of discovery obligation; should be in expert report."

Elan identified Dr. Shi as a fact witness on its proposed witness list to the pre-trial order, and provided Abraxis the deposition designations it may use at trial on March 7, 2008. Elan did not designate Dr. Shi as an expert in this proceeding, Dr. Shi has not tendered an expert opinion in this proceeding, nor has Dr. Shi tendered an expert report in this proceeding. To date, Abraxis has made no showing that Dr. Shi is a testifying expert for Elan. Rather, Dr. Shi, as a post-doctoral student in Dr. Berkland's laboratory at the University of Kansas (Depo. of Lianjun Shi 15:25-16:9 (Jan. 7, 2008)), merely assisted in preparing two samples of Abraxane for Dr. Berkland (Depo of Lianjun Shi 50:15-17), for which he was paid $50. (Depo of Lianjun Shi 39:24-40:1; 40:6-7).

In the context of excluding trial testimony from a witness not listed on a parties' pre-trial order (which are not the facts at issue in this case as Elan included Dr. Shi in its pre-trial submission), the Third Circuit weighs four factors when considering a motion to exclude: (1) the prejudice or surprise in fact to the opposing party, (2) the ability of that party to cure the prejudice, (3) the extent of disruption of the orderly and efficient trial of the case, and (4) the bad faith or willfulness of the non-compliant party. *Berroyer v. Hertz*, 672 F.2d 334, 338 (3d Cir. 1982). In this case, (1) Abraxis has not articulated any prejudice to allowing Dr. Shi to testify, (2) Abraxis had ample opportunity to cure any prejudice during its deposition of Dr. Shi on

January 7, 2008, (3) there will be no disruption of trial given Elan's timely inclusion of Dr. Shi's deposition designation in the pre-trial order, and (4) Abraxis can claim no bad faith or willfulness on the part of Elan regarding Dr. Shi's testimony as Elan included Dr. Shi's deposition designation in the pre-trial order.

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
LIANJUN SHI DEPOSITION

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
11:17-11:21			11:12-16	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context.	
13:15-13:16			13:11-14	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context.	
13:18-13:21			13:11-14		
24:19-24:21			21:7-9; 21:11-16; 21:18-22:3; 33:5-6; 33:8-13	• Proffered testimony is not further explanatory of designated testimony. • Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Depo Obj. at 21:10 - (611(a)) - Assumes facts not in evidence. • Depo Obj. at 21:17 - (611(a)) -	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				Assumes facts not in evidence. • Proffered testimony found 9 pages after designated testimony does not further fairness or completeness. •	
32:17-32:21			33:5-6; 33:8-13	• Proffered testimony is not further explanatory of designated testimony. • Designated testimony does not need explanation or context.	
42:17-42:24			42:1-16	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context.	
44:23-45:3			45:4-15; 47:4-20	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
49:21-49:24			50:24-25; 51:2-6; 53:3-54:2; 54:5-55:11; 56:10-24; 57:25-58:2; 58:4-7; 58:9-17; 58:19-23: 58:25-59:1; 61:3-11; 61:13; 62:10-13; 62:15; 62:21-23; 62:25; 73:1-3; 73:5-7; 73-9; 77:21-78:9; 78:11-12; 78:14 79:10-12; 80:7-8; 80:15-81:13; 81:15-18; 81:23-82:1; 92:1-6; 92:8-14; 92:16-93:2; 93:21-25; 94:1-18; 94:20-95:19; 96:9-97:16; 97:18-98:16; 98:18-23; 98:25-99:8; 100:4-101:23; 102:1-5; 102:7-16; 102:18-103:2; 103:4-8; 109:22-110:2; 110:4-110:13; 110:15; 111:2-3; 111:5-112:2; 112:4-8; 114:9-11; 114:13-25; 115:3-8; 115:10-116:8;	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 4, 7, 8, 12, 13, 24, 28, 30, 31, 43, 44, 47, 51, 60, 62, 65, 73, 75, 77, 78, 80, and 108 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) Lack of Personal Knowledge; (FRE 611(a)) Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) Lack of Personal Knowledge; (FRE 611(a)) Calls for Speculation • (FRE 403) Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
			116:10-13; 116:15; 122:6-10; 122:12-16; 124:19-22; 124:24; 125:20-126:2; 126:4-6; 126:8-13; 127:25-128:1; 128:3-13; 128:15-16; 129:9-11; 129:13-17; 129:19; 157:19-21; 157:23	• (FRE 611(a)) (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation •	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
50:1-50:10 50:12-50:17			Same counter-designation as for Elan designation 49:21-49:24	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 6, 8, 11,12, 23, 27, 29, 30, 42, 43, 46, 50, 59, 61, 64, 72, 74, 76, 77, 79, and 107 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) Lack of Personal Knowledge; (FRE 611(a)) Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) Calls for Speculation • (FRE 403) Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 611(a)) (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
63:1-63:13			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 5, 7, 8, and 12 pages before designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony does not further fairness or completeness. • Proffered testimony found 10, 14, 16, 17, 29, 30, 33, 37, 46, 48, 51, 59, 61, 62, 64, 66, and 94 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) (112:1-2, 112:4)	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
65:8-65:11 65:15-65:17			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 15, 10, 9, 6, and 4 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 8, 12, 14, 27, 28, 31, 35, 44, 46, 49, 57, 59, 60, 61, 64 and 92 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
66:20-66:21 66:23-67:7 67:9-67:21			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 16, 11, 10, 7, 5 and 4 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 7, 10, 13, 26, 27, 29, 34, 43, 45, 48, 56, 58, 59, 65, and 90pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
78:15-78:16			Same counter-	• Proffered testimony does not further explain designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
78:18-79:9			designation as for Elan designation 49:21-49:24	testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 23, 22, 19, 18, 17, 16 and 5 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 9, 14, 15, 18, 22, 31, 33, 36, 44, 47, 49, 51, and 78 pages after before designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE - 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
80:7-80:8 80:10-80:12			Same counter-designation as for Elan designation	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
80:14-80:19			49:21-49:24	testimony. • Proffered testimony found 30, 25, 24, 21, 19, 18, and 7 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 12, 13, 15 16, 20, 29, 31, 34, 42, 45, 47, 49, and 77 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
81:1-81:13 81:15-81:21 81:23-82:1			Same counter-designation as for Elan designation 49:21-49:24	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Proffered testimony found 31, 26, 25, 22, 20, 19, and 8 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 11, 14, 18, 28, 29, 33, 41, 44, 46, 48, and 75 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
83:5-83:10			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 33, 28, 27, 24, 22, 21, 10, 5, and 4 pages	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				before designated testimony does not further fairness or completeness. • Proffered testimony found 9, 10, 13, 17, 26, 28, 31, 39, 42, 44, 46, and 74 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4)	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
88:2-88:4 88:6-88:17			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 38, 33,32, 29, 27, 26, 15, 10, 9, 8 and 4 pages before designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony does not further fairness or completeness. • Proffered testimony found 5,8, 12, 21, 23, 26, 34, 37, 39, 41, and 69 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
89:5-89:11 89:13-89:15			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 39, 34, 33, 30, 28, 27, 16, 11, and 10 pages before designated testimony does not further fairness or	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				completeness. • Proffered testimony found 4, 7, 11, 20, 22, 25, 33, 36, 38, 40 and 68 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
92:13-92:14 92:16-92:22			Same counter-designation as for Elan designation 49:21-49:24	• (FRE 403) Cumulative Counter designated testimony 92:13-14 and 92:16-21 is already designated by Elan. • Depo. Obj. at 92:7 - (FRE 702) - Improper lay opinion. • Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Designated testimony does not need explanation or context. • Proffered testimony found 42, 37, 36, 33, 31, 30, 19, 14, 13 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 4, 8, 17, 19, 22, 30, 33, 37, 38, and 65 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
93:21-94:17			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Proffered testimony found 43, 38, 37, 34, 32, 31, 20, 15, 14 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 7, 16, 18, 21, 29, 32, 34, 36, and 63 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
97:2-97:12			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • (FRE 403) - Cumulative Proffered	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony at 97:2-12 is already designated by Elan. • Proffered testimony found 46, 42, 41, 38, 36, 35, 24, 19, 18 and 5 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 12, 14, 17, 25, 27, 30, 32, and 60 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
97:25-98:8			Same counter-designation as for Elan designation	• Proffered testimony does not further explain designated testimony. • Designated testimony does not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
			49:21-49:24	need explanation or context. • Proffered testimony found 46, 42, 41, 38, 36, 35, 24, 19, 18 and 5 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 12, 14, 17, 25, 27, 30, 32, and 60 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) Lack of Personal Knowledge; (FRE 611(a)) Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) Lack of Personal Knowledge; (FRE 611(a)) Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
103:21-103:23 103:25-104:1			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 53, 48, 47, 44, 42, 41, 30, 25, 24, 11, 9 and 5 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 6, 8, 11, 19, 21, 24, 26, and 54 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
108:24-108:25			Same counter-	• Proffered testimony does not further explain designated	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
109:2-109:3			designation as for Elan designation 49:21-49:24	testimony. • Designated testimony does not need explanation or context. • Proffered testimony found 58, 53, 52, 49, 47, 46, 35, 30, 29, 16, 14, 10 and 5 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 6, 14, 16, 17, 19, 21, and 49 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
109:7-109:21			Same counter-designation as for Elan designation	• Proffered testimony does not further explain designated testimony. • Designated testimony does not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
			49:21-49:24	need explanation or context. • Proffered testimony found 59, 54, 53, 50, 48, 47, 36, 31, 30, 17, 15, 11, and 6 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 15, 16, 18, 20, and 48 pages after designated testimony does not further fairness or completeness. • Proffered testimony found 5, 13 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
110:16-110:19			Same counter-	• Designated testimony does not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
110:21-111:1			designation as for Elan designation 49:21-49:24	need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony found 60, 55, 54, 51, 49, 48, 37, 32, 31, 18, 16, 12, and 7 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 4, 12, 14, 15, 17, 19, and 47 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
124:25-125:1			Same counter-designation as for Elan designation	• Proffered testimony does not further explain designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
125:3-125:19			49:21-49:24	• Designated testimony does not need explanation or context. • Proffered testimony found 74, 69, 68, 65, 63, 62, 51, 46, 45, 32, 30, 26, 21, 14, 12 and 4 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 8 and 33 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602 (112:5-8)) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	
135:9-135:12 135:14-135:16			Same counter-designation as for Elan designation 49:21-49:24	• Proffered testimony does not further explain designated testimony. • Designated testimony does not need explanation or context.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				• Proffered testimony found 85, 80, 79, 76, 74, 73, 62, 57, 56, 43, 41, 37, 32, 25, 23, 18, 13, 10, 9, and 7 pages before designated testimony does not further fairness or completeness. • Proffered testimony found 22 pages after designated testimony does not further fairness or completeness. • Proffered testimony found 6 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 61:12- (FRE 602) - Lack of Personal Knowledge • Depo. Obj. at 62:14- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • Depo. Obj. at 62:24- (FRE 602) - Lack of Personal Knowledge; (FRE 611(a)) - Calls for Speculation • (FRE 403) - Cumulative Proffered testimony at 92:21 to 94:17 is already designated by Elan. • (FRE 403) - Cumulative Proffered	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				testimony at 97:2-12 and 97:25 to 98:8 is already designated by Elan. • (FRE 611(a)) - Assumes facts not in evidence; Shi Exhibit 2 not on exhibit list. • (FRE 611(a)) - (112:1-2, 112:4) Vague and ambiguous. Counter designated testimony consists of a question without an answer. • (FRE 602) - (112:5-8) - Lack of Personal Knowledge • (FRE 402) - Relevance (115:12-21) • (FRE 402) - Attorney colloquy (115:12-21) • Depo. Obj. at 124:23 (FRE 611(a)) - Mischaracterizing testimony of witness, Assumes facts not in evidence. • Depo. Obj. at 128:2 - (FRE 611(a)) - Mischaracterizing testimony of witness • Depo. Obj. at 129:18- (FRE 602) - No Personal Knowledge; (FRE 611(a)) - Calls for Speculation	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
145:12-145:14 145:16-146:1 146:5-146:7			144:1-2; 144:4-17; 144:19-25; 146:13-15; 146:17; 154:14-17; 154:19-155:1	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
147:23-147:24 148:1-148:8			Same counter-designation as for Elan designation 145:12-145:14	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
155:2-155:12			155:16-22; 155:24-156:5	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • (FRE 403) - Cumulative	

EXHIBIT 8-H

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Dewey H. Barich

Deposition Designations: Dewey H. Barich

BEGIN (page:line)	END (page:line)
6:19	6:24
8:13	9:5
9:22	10:6
10:12	10:15
11:6	11:8
12:6	12:10
12:12	12:14
14:2	14:3
14:5	14:9
22:16	22:18
22:20	22:25
23:16	24:4
26:25	27:3
29:8	29:10
29:12	29:14
29:16	29:22
29:25	30:1
30:8	30:11
31:19	31:21
31:23	31:25
32:15	32:18
32:20	33:3
64:17	65:4
65:6	65:13
66:10	66:12
66:14	66:25
69:5	69:6
69:8	70:2
70:14	70:16
71:3	71:15
72:21	72:24
73:1	73:9
73:11	74:4
114:25	115:8
115:13	115:21
116:14	116:20
116:22	117:3
117:15	117:17
121:25	122:3
122:14	122:18
129:13	129:24
131:21	132:10
132:12	132:13
147:2	147:4
147:6	147:8
159:21	159:23
159:25	160:10
162:16	163:3
164:3	164:16

199:1 199:3
199:5 199:10

EXHIBIT 8-HH

TO PRETRIAL ORDER

Abraxis's Objections and Counter-Designations of Deposition Testimony

Witness: Dewey H. Barich

Abraxis objects to all of Elan's deposition designations for Dewey Barich for the reasons discussed in Abraxis's motions in limine.

Elan will address Abraxis' objections to the admissibility of Dr. Dewey Barich's deposition testimony in Elan's response to Abraxis' motion in limine.

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
DR. DEWEY H. BARICH

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
11:6-11:8			11:9-11; 11:22-24	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
14:2-14:3			13:4-5; 13:8-11	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
29:8-29:10			65:3-4; 65:6-7	• (FRE 403) - Cumulative - Counter designated testimony 65:3-4 and 65:6-13 is already designated by Elan. • Proffered testimony found 36 pages after designated testimony does not further fairness or completeness. • Designated testimony does not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				need explanation or context. • (FRE 402) - Proffered testimony is not relevant to the question against which it is offered.	
66:14-66:25			65:3-4; 65:6-14; 66:5-9; 67:1-5	• (FRE 403) Cumulative Counter designated testimony 65:3-4 and 65:6-13 is already designated by Elan. • Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony. • Proffered testimony 67:1-5 is not relevant to designated testimony.	
71:3-71:15			71:16-20; 72:1-3	• Designated testimony does not need explanation or context. • Proffered testimony does not further explain designated testimony.	
115:13-115:21			115:22-25; 116:5-13	• Designated testimony does not need explanation or context. • Proffered testimony does not	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				further explain designated testimony.	
116:22-117:3			117:4-5; 117:7-9; 117:11	• Designated testimony does not need explanation or context. • Proffered testimony is not further explanatory of designated testimony. • Depo. Obj. at 117:10 - (FRE 602) - No Personal Knowledge	
117:15-117:17			117:18-21; 117:24-121:17	• Proffered testimony is not further explanatory of designated testimony. • Designated testimony does not need explanation or context.	
122:14-122:18			65:3-4; 65:6-7	• Proffered testimony found 57 pages before designated testimony does not further fairness or completeness. • Designated testimony does not need explanation or context. • Proffered testimony is not further explanatory of designated testimony.	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
129:13-129:24			129:25-131:14; 212:25-213:3; 213:11-18; 213:20; 218:19-23; 218:25; 222:17-20; 222:22; 223:10-11	• Designated testimony does not need explanation or context. • Proffered testimony is not further explanatory of designated testimony. • Proffered testimony found 83 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 213:10 - (FRE 611(a)) - compound question • Proffered testimony found 83 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 213:19 - (FRE 611(a)) - mischaracterizes witness' testimony. • Proffered testimony found 89 pages after designated testimony does not further fairness or completeness. • Depo. Obj. at 218:24 - (FRE 611(a)) - mischaracterizes deponent's testimony. • Proffered testimony found 93 pages after designated testimony	

Elan Designations	Abraxis Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				does not further fairness or completeness. • Depo Obj. at 222:23-24 - (FRE 611(a)) - Assumes facts not in evidence.	
164:3-164:16			164:17-19; 164:21-165:10; 165:12	• Designated testimony does not need explanation or context. • Depo. Obj. at at 164:20 - (FRE 802) - Hearsay with Hearsay	

EXHIBIT 8-I

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Johnson Tai Wong

Deposition Designations: Johnson Tai Wong

BEGIN (page:line)	END (page:line)
58:9	58:14
58:16	58:21
60:14	60:15
60:17	60:17
60:19	61:8
63:4	63:6
63:10	63:10
63:13	63:14
65:20	66:1
133:10	134:23
134:25	134:25
135:2	135:3
135:5	135:5
135:25	136:3
140:19	141:7
141:10	141:11
141:13	141:14
142:18	143:4
144:3	144:6
215:24	216:21
216:23	217:6
217:11	217:13
276:12	276:13
276:15	277:1
277:3	277:21
281:4	281:6
281:8	281:10
281:12	282:13
282:15	282:18
293:1	293:9
318:19	319:11
319:13	319:22
319:24	320:2
320:4	320:14
320:16	320:8
321:12	321:13
322:21	323:2
323:14	323:17
323:20	323:22
327:14	327:18
327:23	328:3
328:9	328:12
328:14	328:14
328:16	329:4
333:15	334:22
376:22	377:3
377:6	377:11
377:13	377:17
377:19	377:21
377:24	378:7

378:11	378:20
378:22	379:7
379:9	379:11
379:13	379:18
379:21	379:22
379:25	380:1
380:3	380:15
380:17	380:19
380:21	380:23
380:25	380:1
381:3	381:8
392:24	393:22
395:8	395:16
396:10	396:12
396:15	396:18
396:20	396:22
396:24	396:24
397:1	397:3

General Abraxis Objection:

Abraxis objects to Elan's designations of the deposition transcript of Johnson T. Wong, as they were served on April 3rd and 4th, 2008, nearly one month after the Court-ordered deadline for Elan to provide its deposition designations.

General Elan Response

Abraxis filed a declaratory judgment action and is therefore the sole plaintiff of its counterclaims that US Patent Nos. 5,399,363 and 5,834,025 are invalid and/or unenforceable. Abraxis's case-in-chief was first served on Elan, two weeks after the Court-ordered deadline. Indeed, Elan was not informed of Abraxis's abandonment of certain invalidity allegations until after April 7, 2008, after Elan's initial deposition designations were made. The additional deposition designations are Elan's response to Abraxis's case in chief and are therefore timely. Moreover, Abraxis suffered no prejudice in Elan's service of additional deposition designations as the parties stipulated that Abraxis would have an additional time (to April 14, 2008) to respond to such deposition designations.

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
Johnson Tai Wong

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
58:9 - 58:14	Irrelevant, compound (58:12-14)			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
58:16 - 58:21	Irrelevant, compound			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan	
60:14 - 60:15	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
60:17 - 60:17	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				deposition designation by Elan.	
60:19 - 61:8	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
63:4 - 63:6	Irrelevant, vague			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
63:10 - 63:10	Irrelevant, vague			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
63:13 - 63:14	Irrelevant, vague			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				deposition designation by Elan.	
65:20 - 66:1	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
133:10 - 134:23	Irrelevant; compound (134:22-23)			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
134:25 - 134:25	Irrelevant, compound			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
135:2 - 135:3	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				deposition designation by Elan.	
135:5 - 135:5	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
135:25 - 136:3	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
140:19 - 141:7	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
141:10 - 141:11	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				deposition designation by Elan.	
141:13 - 141:14	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
142:18 - 143:4	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
144:3 - 144:6	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
215:24 - 216:21	Irrelevant			• FRE 401 Proffered testimony of knowledge and use of animals in toxicology studies has the tendency to make the existence of a fact that is of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				consequence to the determination for the action more probable.	
216:23 - 217:6	Irrelevant			• FRE 401 Proffered testimony of knowledge and use of animals in toxicology studies has the tendency to make the existence of a fact that is of consequence to the determination for the action more probable.	
217:11 - 217:13	Irrelevant			• FRE 401 Proffered testimony of knowledge and use of animals in toxicology studies has the tendency to make the existence of a fact that is of consequence to the determination for the action more probable.	
276:12 - 276:13	Irrelevant, vague			• FRE 401 Proffered testimony of polystyrene being a model for solid drug has the tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Question is neither	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				unintelligible or susceptible to at least two interpretations.	
276:15 - 277:1	Irrelevant, vague			• FRE 401 Abraxis testimony regarding polystyrene being a model for solid drug makes the existence of a fact of consequence to the determination of the action more probable. • Question is neither unintelligible or susceptible to at least two interpretations	
277:3 - 277:21	Irrelevant			• FRE 401- Abraxis testimony that drugs can have adverse effects, that paclitaxel and aspirin have different adverse effects, and that polystyrene is a good model for a certain structure of a certain size that can have surface modifier makes the existence of a fact of consequence to the determination for the action more probable.	
281:4 - 281:6	Irrelevant, FRE 403 (unfairly			• FRE - 401 -Abraxis's testimony that its expert uses	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
	prejudicial, waste of time)			models in experiments to observe various effects makes the existence of a fact of consequence to the determination for the action more probable. • Probative value of Abraxis's expert use of models in experiments to observe various effects outweighs danger of unfair prejudice or by considerations of waste of time. • As FRE 403 only applies to the exclusion of relevant evidence, Abraxis's objection based on irrelevance is inconsistent.	
281:8 - 281:10	Irrelevant, FRE 403 (unfairly prejudicial, waste of time)			• FRE - 401 -Abraxis's testimony that its expert uses models in experiments to observe various effects makes the existence of a fact of consequence to the determination for the action more probable.	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				• Probative value of Abraxis's expert use of models in experiments to observe various effects outweighs danger of unfair prejudice or by considerations of waste of time. • As FRE 403 only applies to the exclusion of relevant evidence, Abraxis's objection based on irrelevance is inconsistent	
281:12 - 282:13	Irrelevant, FRE 403 (unfairly prejudicial, waste of time)			• FRE - 401 -Abraxis's testimony that its expert studies biospecific antibodies in mice makes the existence of a fact of consequence to the determination for the action more probable. • Probative value of Abraxis's expert use of mice to study biospecific antibodies	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				outweighs danger of unfair prejudice or by considerations of waste of time. • As FRE 403 only applies to the exclusion of relevant evidence, Abraxis's objection based on irrelevance is inconsistent	
282:15 - 282:18	Irrelevant, FRE 403 (unfairly prejudicial, waste of time)			• FRE - 401 -Abraxis's testimony that its expert studies biospecific antibodies in mice and targets humans in his patents makes the existence of a fact of consequence to the determination for the action more probable. • Probative value of Abraxis's expert use of mice to study biospecific antibodies and targets humans in his patents outweighs danger of unfair prejudice or by considerations of waste of time.	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				• As FRE 403 only applies to the exclusion of relevant evidence, Abraxis's objection based on irrelevance is inconsistent	
293:1 - 293:9	Irrelevant, FRE 403, no question.			• Abraxis's testimony that different active drugs such as chemotherapeutic agents compounded with different nanoparticulate are very different from each other makes the existence of a fact of consequence for the action less probable. • Probative value of Abraxis testimony that different active agents such as chemotherapeutic agents are very different from each other outweighs danger of unfair prejudice or by considerations of waste of time.	
318:19 - 319:11	Irrelevant			• FRE 401 - Abraxis's testimony that some nanoparticulate formulations	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				can be administered at ten milligrams per minute makes a fact of consequence for the action less probable.	
319:13 - 319:22	Irrelevant			• FRE 401 - Abraxis's testimony that it is feasible to administer a nanoparticulate drug at a rate of infusion of ten milligrams per minute makes a fact of consequence for the action less probable.	
319:24 - 320:2	Irrelevant			• FRE 401 - Abraxis's testimony that it is feasible to administer a nanoparticulate drug at a rate of infusion of ten milligrams per minute makes a fact of consequence for the action less probable.	
320:4 - 320:14	Irrelevant			• FRE 401 - Abraxis's testimony that it is feasible to administer a nanoparticulate drug at a rate of infusion of ten milligrams per minute makes a fact of consequence for the action less probable.	
320:16 -	Irrelevant,				

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
320:8	fragment of question and of answer.				
321:12 - 321:13	Irrelevant			• FRE 401 - Abraxis's testimony that it is feasible to administer a nanoparticulate drug at a rate of infusion of ten milligrams per minute makes a fact of consequence for the action less probable.	
322:21 - 323:2	Irrelevant		322:7-20; 323:23-324:13, 393:23-394:1, 175:11-12, 175:14-176:7	• FRE 401 - Abraxis's testimony that the '025 patent claims exactly what its experiment allowed makes a fact of consequence for the action less probable. • Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony. • Proffered testimony found 70 pages after designated	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				testimony does not further fairness or completeness (393:23-394:1) • Proffered testimony found 148 pages before designated testimony does not further fairness or completeness. (175:11-12, 175:14-176:7)	
323:14 - 323:17	Irrelevant		322:7-20; 323:23-324:13, 393:23-394:1, 175:11-12, 175:14-176:7	• FRE 401 - Abraxis's expert testimony regarding the claim language of the '025 patent is fairly specific makes a fact of consequence for the action less probable. • Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony.	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				• Proffered testimony found 70 pages after designated testimony does not further fairness or completeness (393:23-394:1) • Proffered testimony found 148 pages before designated testimony does not further fairness or completeness. (175:11-12, 175:14-176:7)	
323:20 - 323:22	Irrelevant		322:7-20; 323:23-324:13, 393:23-394:1, 175:11-12, 175:14-176:7	• FRE 401 - Abraxis's expert testimony regarding the claim language of the '025 patent is fairly specific makes a fact of consequence for the action less probable. • Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				explain designated testimony. • Proffered testimony found 70 pages after designated testimony does not further fairness or completeness (393:23-394:1) • Proffered testimony found 148 pages before designated testimony does not further fairness or completeness. (175:11-12, 175:14-176:7)	
327:14 - 327:18	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
327:23 - 328:3	Irrelevant, no question designated for answer			• FRE 401 - Abraxis's expert testimony regarding his understanding of '025 patent claims makes a fact of consequence for the action less probable	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
328:9 - 328:12	Irrelevant, calls for legal conclusion on claim construction			• FRE 401 - Abraxis's expert testimony regarding his understanding of '025 patent claims makes a fact of consequence for the action less probable. • FRE 702 - Expert Testimony.	
328:14 - 328:14	Irrelevant, calls for legal conclusion on claim construction			• FRE 401 - Abraxis's expert testimony regarding his understanding of '025 patent claims makes a fact of consequence for the action less probable • FRE 702 - Expert Testimony	
328:16 - 329:4	Irrelevant		329:23-25, 330:2-17	• FRE 401 - Abraxis's expert testimony that a person is able to administer at five milligram per minutes or twenty milligram per minute when told to do so makes a fact of consequence for the	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				action less probable. • Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony.	
333:15 - 334:22	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan.	
376:22 - 377:3	Irrelevant, vague and ambiguous, lacks foundation			• FRE 401 - Abraxis's expert testimony that crosslinked protein can be immunogenic makes a fact of consequence for the action more probable. • FRE 702 - Proper expert testimony.	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
377:6 - 377:11	Irrelevant, vague and ambiguous, lacks foundation			• FRE 401 - Abraxis's expert testimony that crosslinked protein can be immunogenic makes a fact of consequence for the action more or less probable. • Abraxis's expert testimony that injectable drugs containing aggregated or crosslinked proteins is a concern for the FDA makes a fact of consequence for the action more or less probable. • Prior designated testimony provides clarity and context to designated portion. • FRE 702 - Proper expert testimony	
377:13 - 377:17	Irrelevant, vague and ambiguous, lacks foundation			• FRE 401 - Abraxis's expert testimony that injectable drugs containing aggregated or crosslinked proteins is a	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				concern for the FDA makes a fact of consequence for the action more or less probable. • Prior designated testimony provides clarity and context to designated portion • FRE 702 - Proper expert testimony	
377:19 - 377:21	Irrelevant, vague and ambiguous, lacks foundation			• FRE 401 - Abraxis's expert testimony that injectable drugs containing aggregated or crosslinked proteins is a concern for the FDA makes a fact of consequence for the action more or less probable. • Prior designated testimony provides clarity and context to designated portion • FRE 702 - Proper expert testimony	
377:24 - 378:7	Irrelevant, vague and ambiguous, lacks foundation			• FRE 401 - Abraxis's expert testimony that injectable drugs containing aggregated or crosslinked proteins is a	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				concern for the FDA makes a fact of consequence for the action more or less probable. • Prior designated testimony provides clarity and context to designated portion • FRE 702 - Proper expert testimony.	
378:11 - 378:20	Irrelevant			• FRE 401 Abraxis's expert testimony that examples of '025 patent represent a reasonable first experiment makes a fact of consequence for the action more or less probable.	
378:22 - 379:7	Irrelevant			• FRE 401 Abraxis's expert testimony that examples of '025 patent represent a reasonable first experiment makes a fact of consequence for the action more or less probable.	
379:9 - 379:11			380:13-15, 17-19; 380:21-23, 380:25-381:8, 268:15-17,	• Designated testimony does not need explanation or	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
			268:19-270:5	context. • Abraxis's designated testimony does not further explain designated testimony. • Proffered testimony found 111 pages before designated testimony does not further fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within Hearsay • FRE 602 lack of personal knowledge	
379:13 - 379:18			380:13-15, 17-19; 380:21-23, 380:25-381:8, 268:15-17, 268:19-270:5	• Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony. • Proffered testimony found	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				111 pages before designated testimony does not further fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within Hearsay • FRE 602 lack of personal knowledge	
379:21 - 379:22			380:13-15, 17-19; 380:21-23, 380:25-381:8, 268:15-17, 268:19-270:5	• Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony. • Proffered testimony found 111 pages before designated testimony does not further fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				Hearsay • FRE 602 lack of personal knowledge	
379:25 - 380:1			380:13-15, 17-19; 380:21-23, 380:25-381:8, 268:15-17, 268:19-270:5	• Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony. • Proffered testimony found 111 pages before designated testimony does not further fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within Hearsay • FRE 602 lack of personal	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				knowledge	
380:3 - 380:15			380:13-15, 17-19; 380:21-23, 380:25-381:8, 268:15-17, 268:19-270:5	• Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony. • Proffered testimony found 111 pages before designated testimony does not further fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within Hearsay • FRE 602 lack of personal knowledge	
380:17 - 380:19			380:13-15, 17-19;	• Designated testimony does	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
			380:21-23, 380:25-381:8, 268:15-17, 268:19-270:5	not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony. • Proffered testimony found 111 pages before designated testimony does not further fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within Hearsay • FRE 602 lack of personal knowledge	
380:21 - 380:23			380:13-15, 17-19; 380:21-23, 380:25-381:8, 268:15-17, 268:19-270:5	• Designated testimony does not need explanation or context. • Abraxis's designated	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				testimony does not further explain designated testimony. • Proffered testimony found 111 pages before designated testimony does not further fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within Hearsay • FRE 602 lack of personal knowledge	
380:25 - 380:1			380:13-15, 17-19; 380:21-23, 380:25-381:8, 268:15-17, 268:19-270:5	• Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony.	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				• Proffered testimony found 111 pages before designated testimony does not further fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within Hearsay • FRE 602 lack of personal knowledge	
381:3 - 381:8			380:13-15, 17-19; 380:21-23, 380:25-381:8, 268:15-17, 268:19-270:5	• Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony. • Proffered testimony found 111 pages before designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				fairness or completeness (268:15-17, 268:19 - 270:5) • FRE 802 Hearsay within Hearsay • FRE 602 lack of personal knowledge	
392:24 - 393:22	Irrelevant			• Abraxis's expert testimony that studies described in '025 patent disclose several controls and several different rates makes a fact of consequence for the action more or less probable.	
395:8 - 395:16			399:25-400:2, 400:6-15	• Designated testimony does not need explanation or context. • Abraxis's designated testimony does not further explain designated testimony. • FRE 802 Hearsay within	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				Hearsay • FRE 602 lack of personal knowledge	
396:10 - 396:12	Irrelevant, vague and ambiguous, lack of foundation			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan. • Question is susceptible to at least two interpretations or unintelligible. • FRE 702 Proper expert opinion.	
396:15 - 396:18	Irrelevant, calls for a legal conclusion			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				until April 7, 2008, after deposition designation by Elan. • Question is susceptible to at least two interpretations or unintelligible. • FRE 702 Proper expert testimony that the claim term is definite to one of ordinary skill in the art.	
396:20 - 396:22	Irrelevant, calls for a legal conclusion			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan. • Question is susceptible to at least two interpretations or unintelligible. • FRE 702 Proper expert testimony.	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
396:24 - 396:24	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan. • Question is susceptible to at least two interpretations or unintelligible. • FRE 702 Proper expert testimony that the claim term is definite to one of ordinary skill in the art	
397:1 - 397:3	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations relating to the '025 patent until April 7, 2008, after deposition designation by Elan. • Question is susceptible to at least two interpretations or unintelligible.	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designation	Elan's Response	Ruling
				• FRE 702 Proper expert testimony that the claim term is definite to one of ordinary skill in the art	

EXHIBIT 8-J

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Edmund A.C. Crouch

Deposition Designations: Edmund A.C. Crouch

BEGIN (page:line)	END (page:line)
81:13	82:1
82:3	82:8
82:10	82:18
82:20	83:3
83:5	83:9
83:11	83:19
83:21	83:25
84:2	84:5
84:7	84:12
84:14	84:14
86:8	86:10
86:12	86:17
86:19	86:22
86:24	87:4
87:6	87:13
87:15	87:16
95:16	97:13

General Abraxis Objection:

Abraxis objects to Elan's designations of the deposition transcript of Edmund Crouch, as they were served on April 3, 2008, nearly one month after the Court-ordered deadline for Elan to provide its deposition designations.

General Elan Response

Abraxis filed a declaratory judgment action and is the sole plaintiff of its counterclaims that US Patent Nos. 5,399,363 and 5,834,025 are invalid and/or unenforceable. Abraxis's case-in-chief was first served on Elan, two weeks after the Court-ordered deadline. Indeed, Elan was not informed of Abraxis's abandonment of certain invalidity allegations until after April 7, 2008, after Elan's initial deposition designations were made. The additional deposition designations are Elan's response to Abraxis's case in chief and are therefore timely. Moreover, Abraxis suffered no prejudice in Elan's service of additional deposition designations as the parties stipulated that Abraxis would have an additional time (to April 14, 2008) to respond to such deposition designations.

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
81:13 - 82:1	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time. • Designated testimony does not need explanation or context. • Proffered testimony	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				found 6 pages after designated testimony does not further fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				• FRE 403 - Needless presentation of cumulative evidence.	
82:3 - 82:8	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				designated testimony does not further fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				presentation of cumulative evidence.	
82:10 - 82:18	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				does not further fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
82:20 - 83:3	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
83:5 - 83:9	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 4 pages after designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
83:11 - 83:19	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 4 pages after designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
83:21 - 83:25	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
84:2 - 84:5	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
84:7 - 84:12	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
84:14 - 84:14	Irrelevant, waste of time		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
86:8 - 86:10	Irrelevant, waste of time, vague		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Prior designated testimony provides clarity and context to designated portion. • Designated testimony does not need	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				explanation or context. • Proffered testimony found 6 pages after designated testimony does not further fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				without deponent's response • FRE 403 - Needless presentation of cumulative evidence.	
86:12 - 86:17	Irrelevant, waste of time, vague		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Prior designated testimony provides clarity and context to	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				designated portion • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				• FRE 402 - Relevance-Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of cumulative evidence.	
86:19 - 86:22	Irrelevant, waste of time, vague		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				delay or waste of time • Prior designated testimony provides clarity and context to designated portion • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance-Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of cumulative evidence.	
86:24 - 87:4	Irrelevant, waste of time, vague		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Prior designated testimony provides clarity and context to designated portion • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of cumulative evidence.	
87:6 - 87:13	Irrelevant, waste of time, vague		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal models has a tendency to make the existence of a fact that is of consequence to the	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Prior designated testimony provides clarity and context to designated portion • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further fairness o completeness. • FRE 403 - Confusion -	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of cumulative evidence.	
87:15 - 87:16	Irrelevant, waste of		87:17-20, 87:24-88:2, 88:4-23	• FRE 401 Proffered testimony about reliance on animal	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
	time, vague			models has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of reliance on animal models for toxicity outweighs consideration of undue delay or waste of time • Prior designated testimony provides clarity and context to designated portion • Designated testimony does not need explanation or context. • Proffered testimony found 6 pages after designated testimony does not further	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				fairness o completeness. • FRE 403 - Confusion - Counter-designation 87:17-20 is a question asked by counsel without deponent's response. • FRE 611 - Vague - Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 402 - Relevance- Counter-designation 87:17-20 is a question asked by counsel without deponent's response • FRE 403 - Needless presentation of	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				cumulative evidence.	
95:16 - 97:13	Irrelevant, FRE 403, lack of foundation (97:5-13)		93:20-23, 93:25-95:4, 97:14-18, 97:20-22.	• FRE 401 Proffered testimony about known particle sizing methods and instruments has a tendency to make the existence of a fact that is of consequence to the determination for the action more probable. • Probative value of particle sizing instruments and methodology outweighs consideration of undue delay or waste of time • Prior designated testimony provides facts and context to designated portion as to 97:5 - 13	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Objections	Elan's Response	Ruling
				• Proffered testimony does not need explanation or context. • Proffered testimony counter designated does not further fairness or completeness as it does not relate to particle size instruments or methodology of particle size instruments	

EXHIBIT 8-K

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Mansoor M. Amiji

Deposition Designations: Mansoor M. Amiji

BEGIN (page:line)	END (page:line)
356:19	357:2
358:23	359:5
360:13	360:20
399:20	400:6
426:4	427:4

General Abraxis Objection:

Abraxis objects to Elan's designations of the deposition transcript of Mansoor Amiji, Ph.D., as they were served on April 3, 2008, nearly one month after the Court-ordered deadline for Elan to provide its deposition designations.

General Elan's Response:

Abraxis is the sole plaintiff of its counterclaims that US Patent Nos. 5,399,363 and 5,834,025 are invalid and/or unenforceable. Abraxis's case-in-chief was served on Elan, two weeks after the Court-ordered deadline. Indeed, Elan was not informed of Abraxis's abandonment of certain invalidity allegations until after April 7, 2008, after Elan's initial deposition designations were made. The additional deposition designations are Elan's response to Abraxis's case in chief and are therefore timely. Moreover, Abraxis was not prejudiced by the timing of Elan's designations. The parties agreed that Abraxis would have additional time (to April 14, 2008) in which to counter Elan's designations, and that a replacement Exhibit 8 would thereafter be filed on April 21. *See* Addendum A to Pre-Trial Order

DEPOSITION DESIGNATIONS, OBJECTIONS AND COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
Mansoor Amiji

Elan Designations	**Abraxis's Objections**	**Ruling**	**Abraxis Counter-Designations**	**Elan's Response**	**Ruling**
356:19 - 357:2	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations based on alleged prior art until after March 7, 2008, after deposition designations were made by Elan.	
358:23 - 359:5	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations based on alleged prior art until after March 7, 2008, after deposition designations were	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				made by Elan.	
360:13 - 360:20	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity allegations based on alleged prior art until after March 7, 2008, after deposition designations were made by Elan.	
399:20 - 400:6			395:12-14; 395:17-19; 396:5-397:11; 397:14-21; 397:23-398:22; 398:25-399:17	• Designated testimony does not need explanation or context. • Proffered testimony does not further fairness or completeness	
426:4 - 427:4	Irrelevant			• Elan was informed of Abraxis's abandonment of certain invalidity	

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
				allegations based on alleged prior art until after March 7, 2008, after deposition designations were made by Elan.	

EXHIBIT 8-L

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Michael Hamrell

Deposition Designations: Michael Hamrell

BEGIN (page:line)	END (page:line)
7:3	7:7
47:2	47:24
93:10	93:14
93:21	93:24
94:1	94:16

General Abraxis Objection:

Abraxis objects to Elan's designations of the deposition transcript of Michael Hamrell, as they were served on April 3, 2008, nearly one month after the Court-ordered deadline for Elan to provide its deposition designations.

General Elan Response

Abraxis filed a declaratory judgment action and is the sole plaintiff of its counterclaims that US Patent Nos. 5,399,363 and 5,834,025 are invalid and/or unenforceable. Abraxis's case-in-chief was first served on Elan, two weeks after the Court-ordered deadline. Indeed, Elan was not informed of Abraxis's abandonment of certain invalidity allegations until after April 7, 2008, after Elan's initial deposition designations were made. The additional deposition designations are Elan's response to Abraxis's case in chief and are therefore timely. Moreover, Abraxis suffered no prejudice in Elan's service of additional deposition designations as the parties stipulated that Abraxis would have an additional time (to April 14, 2008) to respond to such deposition designations.

DEPOSITION DESIGNATIONS, OBJECTIONS, COUNTER-DESIGNATIONS, AND OBJECTIONS THERETO
MICHAEL HAMRELL

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter Designations	Elan's Response	Ruling
7:3 - 7:7					
47:2 - 47:24	Irrelevant			• FRE 104(a), (b)	
93:10 - 93:14	Irrelevant			• FRE 104(a), (b)	
93:21 - 93:24	Irrelevant			• FRE 104(a), (b)	
94:1 - 94:16	Irrelevant			• FRE 104(a), (b)	

EXHIBIT 8-M

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: William J. Davis

Deposition Designations: William J. Davis

BEGIN (page:line)	END (page:line)
205:19	205:14

General Abraxis Objection:

Abraxis objects to Elan's designations of the deposition transcript of William J. Davis, as they were served on April 4, 2008, nearly one month after the Court-ordered deadline for Elan to provide its deposition designations. Abraxis further objects to Elan designating deposition testimony from Mr. Davis, its attorney, on the grounds that he is not unavailable to Elan and his testimony is therefore hearsay (FRE 802, 804(b)(1)).

General Elan Response:

Abraxis filed a declaratory judgment action and is the sole plaintiff of its counterclaims that US Patent Nos. 5,399,363 and 5,834,025 are invalid and/or unenforceable. Abraxis's case-in-chief was first served on Elan, two weeks after the Court-ordered deadline. Indeed, Elan was not informed of Abraxis's abandonment of certain invalidity allegations until after April 7, 2008, after Elan's initial deposition designations were made. The additional deposition designations are Elan's response to Abraxis's case in chief and are therefore timely. Moreover, Abraxis suffered no prejudice in Elan's service of additional deposition designations as the parties stipulated that Abraxis would have an additional time (to April 14, 2008) to respond to such deposition designations. See Addendum A to Pre-Trial Order.

Futhermore, Mr. Davis is not Elan's attorney. Neither is Mr. Davis a representative, agent, or employee of Elan. Accordingly, Elan has no control or custody of Mr. Davis. The designated testimony of Mr. Davis, i.e., that he had not intent to deceive the patent office is not hearsay, as it goes to the deponent's state of mind.

Elan Designations	Abraxis's Objections	Ruling	Abraxis Counter-Designations	Elan's Response	Ruling
205:19 - 20[6]:14*	Irrelevant, FRE 403, a question or an answer.			• FRE 401 - Witness testimony that he had no intent to deceive the patent office makes a fact of consequence for the action less probable. • Witness testimony that he had no intent to deceive the patent office outweighs any danger of unfair prejudice, confusion of the issues, or misleading the jury, or considerations of undue delay, waste of time, or needless presentation of cumulative evidence.	

EXHIBIT 8-N

TO PRETRIAL ORDER

Plaintiff's Designation of Deposition Testimony

Witness: Kathryn Melody

KATHERINE MELODY

DEPOSITION DESIGNATIONS

PAGE: LINE
2:1-4
2:7-13
3:20-21
4:1
4:3-6
4:19-24
6:2-8
7:24 - 8:1
8:6-8

8:9-11
8:15-18
8:22-23
9:1
12:22-24
13:1
13:4-12
13:16-18
13:24 - 14:17
16:18-19
17:4-9
18:13-17

20:1-4
20:6-12
21:14-17
21:19-21
21:23 - 22:1
23:20-22
24:2-7
24:9-12
24:15-19
24:22
27:22 - 28:1
28:3-4

28:6-8
28:10-19
29:21-24
30:2-4
30:6-7
30:9-11
30:13-21
31:4-7
31:10-13
31:15 - 32:6
35:14-21
35:23 - 36:1

36:3-5
36:7
38:15-18
38:20 - 39:2
39:4-10
39:12
39:17 - 39:24
40:14-16
40:18-23
41:1-7
41:22 - 42:13
42:16-18

42:20-23
43:1
44:6-8
44:10-12
44:14-16
44:18
45:6-9
45:11-14
45:16-19
45:21
45:23-24
46:2-8

46:10-17
46:19-22
47:8-13
47:15-18
47:22-23
48:1-10
48:12-16
48:20-24
49:2
49:10-21
49:23
51:6-8

51:10-20
52:16-20
52:22-24
53:2-7
53:9-18
53:22 - 54:3
54:5-7
54:9-11
56:12-13
56:15
56:17-18
56:20-24

57:2-4
57:6
57:9-14
57:19-21
59:10-18
59:20-23
60:1
60:3-7
60:9-13
61:22-62:1
62:10-19
62:21-24

63:2-4
63:6
67:12-17
67:19 - 68:8
68:10-13
68:15-19
68:21 - 69:1
69:4
69:10-16
69:18
69:23-24
70:2-5

70:7-12
70:14-16
70:18-21
71:11-15
72:3
72:11-14
72:16-19
72:21
78:13-22
78:24 - 79:1
79:3-7
79:9-10

79:12-15
79:17-19
83:9-11
84:8-12
84:16-20
88:13-5
88:17
91:1-2
91:4-5
91:7-11
91:14-16
91:21 - 92:2

92:4-5
92:7-8
93:18-24
94:2-3
94:5-6
94:10-11
94:13 - 94:20
94:22
94:24-95:4
95:10-11
95:13
96:24 - 97:1

97:5-7
99:8-11
104:1-5
104:7-12
104:14
110:1-8
110:10
111:3-5
111:7-8
111:11-14
111:16-21
116:6-18

116:20 - 117:1
118:24 - 119:2
119:4-7
119:9-11
119:17-18

ABRAXIS'S OBJECTION TO ELAN'S DESIGNATION OF MS. MELODY'S TESTIMONY

Abraxis objects to the presentation of Ms. Melody by deposition at trial, as Ms. Melody is available to testify and within the subpoena power of the Court. Elan subpoenaed Ms. Melody to testify at trial on June 6, 2008; Ms. Melody will appear to testify at trial pursuant to Elan's subpoena.