IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

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

DEFENDANT'S MOTION TO AMEND JUDGMENT TO FIND THAT THE '363 AND '025 PATENTS ARE UNENFORCEABLE FOR INEQUITABLE CONDUCT

Pursuant to Federal Rules of Civil Procedure 52(a)(1), (b), and 59(e), defendant Abraxis BioScience, Inc. ("Abraxis") hereby moves the Court to amend its judgment and enter findings of fact and conclusions of law that the '363 and '025 patents are unenforceable due to inequitable conduct. The grounds for Abraxis's motion, as will be more fully set forth in Abraxis's brief, are that:

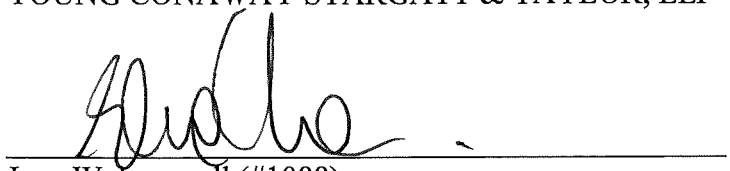
1) The '363 patent is unenforceable due to inequitable conduct because Elan made false representations or withheld information during prosecution concerning contamination or the ability to practice the full scope of the claimed invention that were material, and did so with intent to deceive;

2) The '025 patent is unenforceable due to inequitable conduct because Elan made false representations or withheld information during prosecution concerning the applicability of the claimed invention to species other than dogs or the ability to practice the full scope of the claimed invention that were material, and did so with intent to deceive.

Briefing for this motion will proceed in accordance with the parties' stipulation governing post-trial briefing, on the Court's approval of the same, which has been filed this date as D.I. 632.

Dated: June 30, 2008

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Josy W. Ingersoll (#1088)
jingersoll@ycst.com
Elena C. Norman (#4780)
enorman@ycst.com
Karen E. Keller (#4489)
kkeller@ycst.com
Michele Sherretta Budicak (#4651)
mbudicak@ycst.com
Jeffrey T. Castellano (#4837)
jcastellano@ycst.com
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19801
(302) 571-6600

OF COUNSEL:

MORRISON & FOERSTER, LLP

Michael A. Jacobs
425 Market Street
San Francisco, CA 94105-2482
(415) 268-7000
MJacobs@mofo.com

Emily A. Evans
Eric S. Walters
Erik J. Olson
755 Page Mill Road
Palo Alto, CA 94304-1018
(650) 813-5600
EEvans@mofo.com
EWalters@mofo.com
EJOlson@mofo.com

Attorneys for Defendant
ABRAXIS BIOSCIENCE, INC.

CERTIFICATE OF SERVICE

I, Elena C. Norman, Esquire, hereby certify that on June 30, 2008, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Steven J. Balick, Esquire
ASHBY & GEDDES
500 Delaware Avenue, 8th Floor
Wilmington, DE 19801

I further certify that on June 30, 2008, I caused a true and correct copy of the foregoing document to be served by e-mail and hand delivery on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

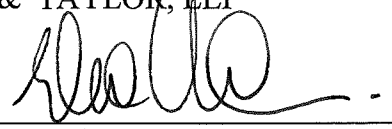
BY E-MAIL

Linda Glover, Esquire
Stephen Scheve, Esquire
BAKER BOTTS L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995
steve.scheve@bakerbotts.com

Paul F. Fehlner, Esquire
BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, NY 10112-4498
paul.fehlner@bakerbotts.com

William J. Sipio, Esquire
1375 Brentwood Road
Yardley, PA 19067
sipz25@aol.cm

YOUNG CONAWAY STARGATT
& TAYLOR, LLP



Josy W. Ingersoll (No. 1088)
jingersoll@ycst.com
Elena C. Norman (No. 4780)
enorman@ycst.com
Karen E. Keller (No. 4489)
kkeller@ycst.com
Michele Sherretta Budicak (No. 4651)
mbudicak@ycst.com
Jeffrey T. Castellano (No. 4837)
jcastellano@ycst.com
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, Delaware 19899
(302) 571-6600

Attorneys for Defendant
ABRAXIS BIOSCIENCE, INC.