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 **PUBLIC VERSION**

DECLARATION OF ERIK J. OLSON IN SUPPORT OF DEFENDANT ABRAXIS BIOSCIENCE, INC.'S ANSWERING BRIEF IN OPPOSITION TO ELAN'S MOTION FOR (1) AN AWARD OF PREJUDGMENT INTEREST AND (2) AN ACCOUNTING OF ABRAXIS'S INFRINGING SALES SINCE JUNE 12, 2008

OF COUNSEL:
Michael A. Jacobs
MORRISON & FOERSTER, LLP
425 Market Street
San Francisco, CA 94105-2482
(415) 268-7000

Emily A. Evans
Eric S. Walters
Erik J. Olson
Paul F. Coyne
Diana B. Kruze
MORRISON & FOERSTER, LLP
755 Page Mill Road
Palo Alto, CA 94304-1018
(650) 813-5600

Anders T. Aannestad
MORRISON & FOERSTER LLP
12531 High Bluff Drive
San Diego, California 92130
(858) 720-5100

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

Attorneys for Defendant
ABRAXIS BIOSCIENCE, INC.

Dated: July 18, 2008

I, Erik J. Olson, declare as follow:

1. I am an attorney admitted to practice in the State of California, and I am admitted pro hac vice in the above-captioned action. I am a partner with the law firm of Morrison & Foerster LLP, attorneys for Abraxis BioScience, Inc. ("Abraxis") in the above-captioned action. I submit this Declaration in Support of Abraxis's Answering Brief In Opposition To Elan's Motion Tor (1) An Award Of Prejudgment Interest And (2) An Accounting Of Defendant Abraxis Bioscience, Inc.'s Infringing Sales Since June 12, 2008. I have personal knowledge of the matters set forth herein, and if called upon to do so, I could and would completely testify thereto.

2. Attached hereto as Exhibit A is a true and correct copy of Supplemental Tab 4 to the Supplemental Expert Report of John C. Jarosz dated May 23, 2008. This table is a document that was shown to Mr. Jarosz during cross examination on pages 859 and 860 of the trial transcript.

3. Abraxis publicly reports its balance sheet as a part of its financial statements in filings made with the United States Securities & Exchange Commission, which are verified by officers of the company. The most recent filing was in a Form 10-Q on May 15, 2008. A true and correct copy of Abraxis's balance sheet from that filing is attached as Exhibit B. As reflected in the filing, Abraxis had $698,244,000 in cash and cash equivalents $865,922,000 in current assets.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed this 17th day of July, 2008 at Palo Alto, California.

Erik J. Olson

CERTIFICATE OF SERVICE

I, Karen E. Keller, Esquire, hereby certify that on July 23, 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 July 23, 2008**,** I caused a true and correct copy of the foregoing document to be served by e-mail on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

BY E-MAIL

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

YOUNG CONAWAY STARGATT
& TAYLOR, LLP

/s/ *Karen E. Keller*
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.

EXHIBIT A

RESTRICTED CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

SUPPLEMENTAL TAB 4

NEW ABRAXIS
2005 - Q1 2008 PROFIT AND LOSS STATEMENT

	2005		2006		2007		Q1 2008		Total	
Revenue	$	%	$	%	$	%	$	%	$	%
Abraxane revenue										
From sales	133,731	98.6%	156,724	86.0%	288,328	86.4%	70,841	86.2%	649,625	88.5%
From AstraZeneca Alliance	-	0.0%	18,182	10.0%	36,364	10.9%	9,091	11.1%	63,636	8.7%
Other revenue	1,944	1.4%	7,381	4.0%	8,994	2.7%	2,210	2.7%	20,529	2.8%
Total revenue	135,675	100.0%	182,287	100.0%	333,686	100.0%	82,142	100.0%	733,790	100.0%
Cost of sales	24,066	17.7%	21,183	11.6%	34,450	10.3%	8,607	10.5%	88,306	12.0%
Gross profit	111,609	82.3%	161,104	88.4%	299,236	89.7%	73,535	89.5%	645,484	88.0%
Expenses										
Research and development	50,121	36.9%	63,073	34.6%	88,717	26.6%	20,822	25.3%	222,733	30.4%
Selling, general and administrative	69,239	51.0%	119,462	65.5%	230,031	68.9%	45,300	55.1%	464,032	63.2%
Amortization of merger related intangibles	-	0.0%	27,349	15.0%	38,615	11.6%	9,653	11.8%	75,617	10.3%
Merger related in-process research and development charge	-	0.0%	83,447	45.8%	-	0.0%	-	0.0%	83,447	11.4%
Other merger related costs	-	0.0%	16,722	9.2%	-	0.0%	-	0.0%	16,722	2.3%
Equity in net income of Drug Source Company, LLC	(1,843)	-1.4%	(2,776)	-1.5%	(3,771)	-1.1%	248	0.3%	(8,142)	-1.1%
Total operating expenses	117,517	86.6%	307,277	168.6%	353,592	106.0%	76,023	92.6%	854,409	116.4%
Income from operations	(5,908)	-4.4%	(146,173)	-80.2%	(54,356)	-16.3%	(2,488)	-3.0%	(208,925)	-28.5%

Notes & Sources:
Data in thousands.
Abraxane revenue from sales calculated as total Abraxane revenue minus Abraxane revenue from AstraZeneca Alliance.
$200 million received from the Astra Zeneca Alliance pro-rated from July 1, 2006.
See Abraxis BioScience, Inc., Annual Report (Form 10-K), at 11, 58 (Mar. 1, 2007); Abraxis BioScience, Inc., Annual Report (Form 10-K), at 51, 68 (Mar. 31, 2008); and Abraxis BioScience, Inc., Quarterly Report (Form 10-Q), at 25 (May 15, 2008).
Other revenue includes $20 million up-front fee received from the Taiho agreement recognized ratably over the estimated life of the agreement.
See Abraxis BioScience, Inc., Annual Report (Form 10-K), at 34, 58 (Mar. 1, 2007); Abraxis BioScience, Inc., Annual Report (Form 10-K), at 46, 69 (Mar. 31, 2008); and Abraxis BioScience, Inc., Quarterly Report (Form 10-Q), at 15 (May 15, 2008).
2005 – 2007 from Abraxis BioScience, Inc., Annual Report (Form 10-K), at 60 (Mar. 31, 2008).
Q1 2008 from Abraxis BioScience, Inc., Quarterly Report (Form 10-Q), at 4 (May 15, 2008).

EXHIBIT B

10kWIZARD
SEC POWER SEARCH

FORM 10-Q

Abraxis Biosciences, Inc. - ABII

Filed: May 15, 2008 (period: March 31, 2008)

Quarterly report which provides a continuing view of a company's financial position

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Abraxis BioScience, Inc.

Condensed Consolidated and Combined Balance Sheets

(in thousands, except share data)

	March 31, 2008 (unaudited)	December 31, 2007
Assets		
Current assets:		
Cash and cash equivalents	$ 698,244	$ 705,125
Accounts receivable, net of chargebacks of $1,061 in 2008 and $1,172 in 2007 and credit returns of $170 in 2008 and $414 in 2007	41,359	43,944
Related party receivable	5,033	1,958
Inventories	71,204	73,677
Prepaid expenses and other current assets	15,583	18,572
Deferred income taxes	34,499	33,696
Total current assets	865,922	876,972
Property, plant and equipment, net	144,952	145,120
Investment in Drug Source Company, LLC	9,027	9,275
Intangible assets, net of accumulated amortization of $76,806 in 2008 and $67,136 in 2007	195,561	205,231
Goodwill	241,361	241,361
Other non-current assets	26,682	24,296
Total assets	$ 1,483,505	$ 1,502,255
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 27,032	$ 33,579
Accrued liabilities	58,078	54,927
Accounts payable to related parties	—	6,986
Income taxes payable	95	5,010
Deferred revenue	41,289	41,289
Total current liabilities	126,494	141,791
Deferred income taxes, non-current	33,199	32,396
Long-term portion of deferred revenue	110,829	121,138
Other non-current liabilities	9,490	9,543
Total liabilities	280,012	304,868
Stockholders' equity:		
Common stock—$0.001 par value; 100,000,000 shares authorized; 40,014,706 and 39,993,684 shares issued and outstanding at March 31, 2008 and December 31, 2007, respectively	40	40
Additional paid-in capital	1,194,327	1,192,461
Retained earnings	8,391	4,082
Accumulated other comprehensive income	735	804
Total stockholders' equity	1,203,493	1,197,387
Total liabilities and stockholders' equity	$ 1,483,505	$ 1,502,255

See notes to condensed consolidated and combined financial statements.

Source: Abraxis Biosciences,, 10-Q, May 15, 2008