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October 7, 2008

BY CM/ECF AND HAND DELIVERY

The Honorable Gregory M. Sleet
U.S. District Court District of Delaware
844 N. King Street, Lockbox 19
Wilmington, DE 19801

Re: *Elan Pharma International Limited v. Abraxis BioScience, Inc.*
Case No. 06-438-GMS

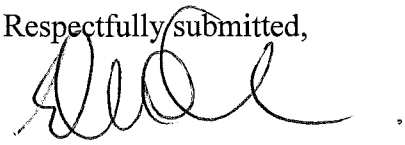
Dear Chief Judge Sleet:

In connection with Abraxis's pending motion for judgment of non-infringement (D.I. 633), we write under LR 7.1.2(b) to bring to the Court's attention a recent decision by the Court of Appeals for the Federal Circuit: *Lucent Techs., Inc. v. Gateway, Inc.*, Nos. 2007-1546, -1580, 2008 U.S. App. Lexis 20319 (Fed. Cir. Sept. 25, 2008), a copy of which is attached.

This decision supports that Abraxis is entitled to judgment because Plaintiff failed to offer substantial evidence of infringement, as described in our opening (D.I. 642) and reply

(D.I. 681) briefs at pages 1-5 and 1-4, respectively. *See id.*, at *30-33.

Respectfully submitted,



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