IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

ELAN PHARMA INTERNATIONAL LIMITED'S[1]
REPLY TO DEFENDANT'S COUNTERCLAIMS,
AND DEMAND FOR JURY TRIAL

Elan Pharma International Limited ("Elan"), for its Reply to the counterclaims of defendant Abraxis BioScience, Inc. ("Abraxis"), hereby states as follows:

SPECIFIC RESPONSES TO COUNTERCLAIMS

1. Upon information and belief, Elan admits that Abraxis is a Delaware corporation with its principal place of business at 11777 San Vincente Boulevard, Suite 550, Los Angeles, CA 90049.

2. Elan admits the complaint states that Élan Pharmaceutical International Limited is a company organized and existing under the laws of Ireland, having a business address at

[1] Due to an inadvertent oversight, plaintiff's name was typed incorrectly on the complaint in this action, and as a result, plaintiff's name has been repeated in incorrect form in subsequent filings. Upon discovery, plaintiff's counsel alerted defendant's Delaware counsel to this oversight via voicemail, and plaintiff's counsel will forward a proposed corrective stipulated order to defense counsel for their approval. Meanwhile, although we have not altered the caption on this filing, since we do not yet have court permission to do so, we have used plaintiff's correct corporate name (Elan Pharma International Limited) in the text of this document.

Monksland, Athlone, Co. Westmeath, Ireland. Consistent with footnote 1 of this Reply, however, Elan notes that plaintiff's correct name is Elan Pharma International Limited, and that it is Elan Pharma International Limited that is a company organized and existing under the laws of Ireland, having a business address at Monksland, Athlone, Co. Westmeath, Ireland.

3. Elan admits that this Court has subject matter jurisdiction over these counterclaims pursuant to 28 U.S.C. §§ 1331 and 1338(a). Elan further admits that Abraxis purports to state counterclaims for declaratory relief under the Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202. Elan, however, denies that there is any factual or legal basis for the declarations sought in these counterclaims.

4. Admitted, except denied that there is any factual or legal basis for the declarations sought in these counterclaims.

5. Elan incorporates its replies to Counterclaim Paragraphs 1-4 above.

6. Admitted by Elan.

7. Admitted by Elan, and further admitted that Elan alleges and claims that Abraxis' infringement of the '025 and '363 patents has been and continues to be willful and deliberate.

8. Denied.

9. Admitted, except denied that there is a factual or legal basis for any declaration other than a declaration of willful and deliberate infringement of the '025 and '363 patents by Abraxis.

10. Elan incorporates its replies to Counterclaim Paragraphs 1-9 above.

11. Admitted by Elan.

12. Denied.

13. Admitted, except denied that there is any factual or legal basis for a declaration that the ‘025 or ‘363 patent is invalid.

GENERAL RESPONSES TO COUNTERCLAIMS

Elan denies that Abraxis is entitled to any relief whatsoever from Elan or the Court, either as prayed for in its Counterclaims or otherwise.

Elan further denies each and every allegation contained in Abraxis’s Counterclaims that were not specifically admitted, denied, or otherwise responded to in this Reply.

JURY DEMAND

Elan respectfully requests a trial by jury on Abraxis’ counterclaims as to all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Elan respectfully requests that judgment on Abraxis’ Counterclaims be entered in Elan’s favor, and against Abraxis, and that Elan be awarded such further relief as the Court deems appropriate.

ASHBY & GEDDES

/s/ Steven J. Balick

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Dated: September 11, 2006

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of September, 2006, the attached **ELAN PHARMA INTERNATIONAL LIMITED'S REPLY TO DEFENDANT'S COUNTERCLAIMS, AND DEMAND FOR JURY TRIAL** was served upon the below-named counsel of record at the addresses and in the manner indicated:

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