IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ASTRAZENECA PHARMACEUTICALS LP, and ASTRAZENECA UK LIMITED, and IPR PHARMACEUTICALS, INC., and SHIONOGI SEIYAKU KABUSHIKI KAISHA,	)	
Plaintiffs,	)	C.A. No. 07-811-JJF
v.	)	
COBALT PHARMACEUTICALS INC., and COBALT LABORATORIES INC.,	)	
Defendants.	)	

DEFENDANTS' MOTION TO DISMISS COUNT II OF THE COMPLAINT OR TERMINATE THE AUTOMATIC STAY OF APPROVAL

Defendants, Cobalt Pharmaceuticals Inc. and Cobalt Laboratories Inc. (collectively, "Defendants"), respectfully move pursuant to Fed. R. Civ. P 12(b)(1) for an Order dismissing Count II of the Complaint or terminating the FDA's automatic stay of approval of Defendants' Abbreviated New Drug Application ("ANDA") under 21 U.S.C. §355(j)(5)(B)(iii). The grounds for this Motion are fully set forth in the accompanying Memorandum in Support.

Respectfully submitted,

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Dated: January 31, 2008
845815 / 32588

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I, Richard L. Horwitz, hereby certify that on January 31, 2008, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on January 31, 2008, the attached document was Electronically Mailed the document to the following person(s):

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ASTRAZENECA PHARMACEUTICALS LP, and ASTRAZENECA UK LIMITED, and IPR PHARMACEUTICALS, INC., and SHIONOGI SEIYAKU KABUSHIKI KAISHA,	)	
Plaintiffs,	)	C.A. No. 07-811-JJF
v.	)	
COBALT PHARMACEUTICALS INC., and COBALT LABORATORIES INC.,	)	
Defendants.	)	

ORDER

Having considered Defendants' Motion To Dismiss Count II Of The Complaint Or Terminate The Automatic Stay Of Approval;

IT IS HEREBY ORDERED this _____day of _____, 2008 that the Motion is GRANTED. Count II of the Complaint is hereby DISMISSED.

_____
United States District Judge

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