IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ENDO PHARMACEUTICALS INC. and PENWEST PHARMACEUTICALS CO.,	)	
Plaintiffs,	)	
v.	)	C. A. No. 08-57 (GMS)
IMPAX LABORATORIES, INC.,	)	
Defendant.	)	

PLAINTIFFS' REPLY TO DEFENDANT'S COUNTERCLAIMS

Plaintiffs/counterclaim defendants Endo Pharmaceuticals Inc. ("Endo") and Penwest Pharmaceuticals Co. ("Penwest") (collectively, "Plaintiffs"), for their reply to the Answer and Counterclaims filed by defendant/counterclaim plaintiff Impax Laboratories, Inc. ("Impax"), upon knowledge as to their own acts, and upon information and belief as to all other matters, hereby respond and allege as follows:

REPLY TO DEFENDANT'S COUNTERCLAIMS

31. Plaintiffs repeat and reallege their allegations with respect to paragraphs 1 to 26 of their Complaint as if set forth at length herein.

32. Admitted in-part and denied in-part. Plaintiffs admit only that a justiciable case or controversy exists. Plaintiffs, however, deny the remaining allegations and implications of this paragraph.

PARTIES

33. Admitted on information and belief.

34. Admitted.

35. Admitted.

JURISDICTION AND VENUE

36. Admitted.

37. Admitted.

BACKGROUND

38. Admitted in-part and denied in-part. Plaintiffs admit only that a justiciable case or controversy exists. Plaintiffs, however, deny the remaining allegations and implications of this paragraph.

39. Admitted in-part and denied in-part. Plaintiffs admit that they filed a complaint against Impax relating to the '456 and '933 patents on November 15, 2007, and that they commenced this suit on January 25, 2008. Plaintiffs further admit that the '456 and '933 patents are listed in the Orange Book with respect to OPANA® ER tablets, which are the subject of NDA No. 21-610. Plaintiffs further admit that Impax has requested that Plaintiffs provide it with a perpetual covenant not to sue for infringement of the'456 and '933 patents, and that they refused to do so. Plaintiffs further admit that they issued a joint press release on December 17, 2007, which press release speaks for itself. Plaintiffs deny the remaining allegations and implications of this paragraph.

COUNT I

40. Plaintiffs repeat and reallege their allegations with respect to paragraphs 1 to 26 of their Complaint and paragraphs 31-39 of this Reply as if set forth at length herein.

41. Denied.

42. Denied.

COUNT II

43. Plaintiffs repeat and reallege their allegations with respect to paragraphs 1 to 26 of their Complaint and paragraphs 31-42 of this Reply as if set forth at length herein.

44. Denied.

45. Denied.

COUNT III

46. Plaintiffs repeat and reallege their allegations with respect to paragraphs 1 to 26 of their Complaint and paragraphs 31-45 of this Reply as if set forth at length herein.

47. Denied.

48. Denied.

COUNT IV

49. Plaintiffs repeat and reallege their allegations with respect to paragraphs 1 to 26 of their Complaint and paragraphs 31-48 of this Reply as if set forth at length herein.

50. Denied.

51. Denied.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court deny all of Impax's requested relief and find in favor of Plaintiffs on all Counts, dismiss Impax's Counterclaim with prejudice, award Plaintiffs the relief they seek in their Complaint, and award Plaintiffs their costs and attorneys fees, as well as such other relief as the Court deems equitable and just.

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March 13, 2008
1942607

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2008 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to:

Richard K. Herrmann
Mary B. Mattterer
MORRIS JAMES LLP

I further certify that I caused to be served copies of the foregoing document on March 13, 2008 upon the following in the manner indicated:

BY E-MAIL

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