IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

INTERVET INC., d/b/a MERCK ANIMAL HEALTH and THE ARIZONA BOARD OF REGENTS, on behalf of The University of Arizona,	)	
Plaintiffs/Counterclaim Defendants,	)	C.A. No. 11-595-LPS
v.	)	**JURY TRIAL DEMANDED**
BOEHRINGER INGELHEIM VETMEDICA, INC.,	)	**PUBLIC VERSION**
Defendant/Counterclaim Plaintiff.	)	

VETMEDICA'S MOTION TO AMEND ITS ANSWER AND COUNTERCLAIMS TO PLAINTIFFS' COMPLAINT FOR PATENT INFRINGEMENT

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Dated: August 29, 2012
Public Version Dated: September 5, 2012
1072830/37150

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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Pursuant to Federal Rules of Civil Procedure 9(b), 15(a), 16(b), and Local Rule 15.1, Defendant Boehringer Ingelheim Vetmedica, Inc. ("Vetmedica") hereby moves to amend its Answer and Counterclaims to Intervet's Complaint for Patent Infringement to add an affirmative defense and counterclaim that U.S. Patent No. 5,610,059 ("'059 patent") is unenforceable due to inequitable conduct before the United States Patent and Trademark Office ("PTO"). Through diligent investigation, Vetmedica has recently learned that the named inventors, Lynn Joens and Robert Glock violated their duty of candor to the PTO by failing to disclose a prior art reference and their own article indicating the significance of this prior art reference during prosecution of the '059 patent with intent to deceive the PTO.

For these reasons, and those described in Vetmedica's Opening Brief in Support of its Motion, Vetmedica respectfully asks that the Court grant its Motion to Amend its Answers and Counterclaims. Pursuant to Local Rule 15.1, a proposed amended pleading is attached as Exhibit 1 and a form of the amended pleading underlining the materials to be added is attached as Exhibit 2.

The undersigned hereby certifies that, pursuant to Local Rule 7.1.1, on August 7, 2012, counsel for Vetmedica contacted counsel for the plaintiffs to inquire whether they would consent to Vetmedica's proposed amendment. On August 21, 2012, counsel for plaintiffs indicated that they would not consent.

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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on September 5, 2012, 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 September 5, 2012, the attached document was Electronically Mailed to the following person(s):

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