

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

Branch 7

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STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04CV1709

ABBOTT LABORATORIES, ET AL.,

Unclassified Civil: 30703

Defendants.

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**DEFENDANT BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.'S  
SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

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Under Wis. Stat. § 804.09, Defendant Boehringer Ingelheim Pharmaceuticals, Inc. ("BIPI"), by its attorneys, hereby supplements its responses to the First Set of Requests for Production of Documents to All Defendants submitted by the State of Wisconsin ("the State") as follows:

**RESERVATION OF RIGHTS**

As to all matters referred to in these supplemental responses to the First Set of Requests for Production of Documents to All Defendants, BIPI's investigation and discovery continues. The specific responses set forth below are based upon, and necessarily limited by, information now available to BIPI. BIPI reserves the right to modify these supplemental responses and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial. Furthermore, any statement by BIPI contained in these supplemental responses to the First Set of Requests for Production of Documents to All Defendants that non-privileged documents or information will be produced in

response to a specific Requests does not mean that any such documents or information actually exist, but only that they will be produced to the extent that they exist.

### **GENERAL OBJECTIONS**

BIPI objects to the use of the word “all” in Plaintiff’s requests as being, in many instances, overly broad and too encompassing to permit literal compliance, which would be unduly burdensome.

BIPI objects to Plaintiff’s requests as they relate to materials maintained in electronic form as unduly burdensome to the extent the requests purport to require BIPI to review thousands, if not millions, of pages of electronic material to locate potentially responsive documents. To the extent BIPI identifies sources of electronic data (including but not limited to email) that may contain responsive materials, BIPI will apply reasonable search criteria to the data for the purpose of locating and making available responsive materials.

BIPI further incorporates by reference all of its objections, both general and specific, enumerated in BIPI’s Responses and Objections to Plaintiff’s Requests for Production, served on Plaintiff July 15, 2005, as part of its response to each request set forth below.

### **SUPPLEMENTAL RESPONSES TO DOCUMENT REQUESTS**

**REQUEST NO. 1:** All National Sales Data for each Targeted Drug during the Defined Period of Time.

#### **RESPONSE TO REQUEST NO. 1:**

**BIPI states that Plaintiff has offered to accept, in lieu of “All National Sales Data for each Targeted Drug during the Defined Period of Time,” transactional sales data**

for three of the Targeted Drugs. Subject to and without waiving its objections, BIPI will produce national transactional data maintained in BIPI's active electronic databases for three of the "Targeted Drugs" identified by Plaintiff as BIPI products to the extent and in the condition such data exists.

**REQUEST NO. 2:** All Documents containing AMPs as reported or calculated by you for the Targeted Drugs OR a spread sheet or database showing all reported and calculated AMPs for each Targeted Drug over the Defined Period of Time which lists when such AMPs were reported or calculated, and the quarter to which each AMP applies.

**RESPONSE TO REQUEST NO. 2:**

BIPI objects to this request as overly broad and not relevant to the extent that it seeks documents relating to the time-period after 2003. BIPI further objects to this request as duplicative and unduly burdensome on the grounds that Plaintiff possesses "AMP" information for the Targeted Drugs. Subject to and without waiving its objections, BIPI states that it will make available to Plaintiff for inspection and/or copying "AMP"s reported to CMS for the Targeted Drugs.

**REQUEST NO. 3:** All Documents created by you, or in your possession, that discuss or comment on the difference (or Spread) between any Average Wholesale Price or Wholesale Acquisition Cost and the list or actual sales price (to any purchaser) of any of defendants' Pharmaceuticals or any Pharmaceuticals sold by other manufacturers. Documents which merely

list the AWP or WAC price and the list or actual sales price without further calculation of the difference, or without other comment or discussion of or about the spread between such prices are not sought by this request.

**RESPONSE TO REQUEST NO. 3:**

**BIPI objects to this request as overly broad and not relevant to the extent that it seeks documents relating to the time-period after 2003. Subject to and without waiving its objections, BIPI states that it will make available to Plaintiff for inspection and/or copying those documents that discuss or comment on the difference between any AWP or WAC and the List Price or actual sales price (to any purchaser) of the Targeted Drugs.**

**REQUEST NO. 4:** All Documents containing an average sales price or composite price identified by you in response to Interrogatory No. 1 of Plaintiff's First Set of Interrogatories to All Defendants.

**RESPONSE TO REQUEST NO. 4:**

**BIPI incorporates its objections and response to Interrogatory No. 1 of Plaintiff's First Set of Interrogatories. BIPI further objects to this request as overly broad and not relevant to the extent that it seeks documents relating to the time-period after 2003. Subject to and without waiving its objections, BIPI will produce responsive documents, if any.**

**REQUEST NO. 5:** All documents sent to or received from First DataBank, Redbook and Medi-span regarding the price of any Targeted Drug.

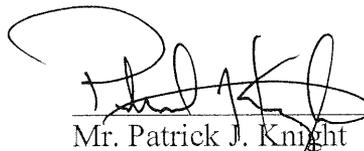
**RESPONSE TO REQUEST NO. 5:**

BIPI objects to this request as overly broad and not relevant to the extent that it seeks documents relating to the time-period after 2003. Subject to and without waiving its objections, BIPI states that it will make available for inspection and/or copying documents sent to or received from First DataBank, Redbook and Medi-span regarding the price of BIPI's Targeted Drugs.

**REQUEST NO. 6:** All Documents in your possession prepared by IMS Health regarding a Targeted Drug or the competitor of a Targeted Drug regarding pricing, sales or market share.

**RESPONSE TO REQUEST NO. 6:**

BIPI objects to this request as overly broad and not relevant to the extent that it seeks documents relating to the time-period after 2003. Subject to and without waiving its objections, BIPI states that it will make available for inspection and/or copying documents responsive to this request to the extent that (1) BIPI currently maintains on its servers or on electronic media any IMS Health data compilation in the form in which it was originally supplied to BIPI by IMS Health and (2) such production does not violate any obligation on the part of BIPI to IMS Health with respect to the dissemination of IMS Health data.



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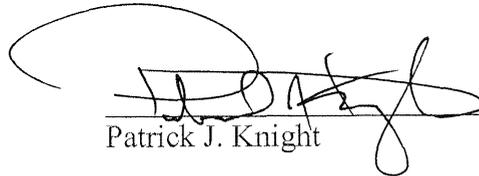
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Defendant Boehringer Ingelheim Pharmaceuticals Inc.'s Supplemental Responses to Plaintiff's First Set of Requests for Production of Documents was served via overnight carrier and e-mail, this 13 day of March, 2006, upon the following:

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