
STATE OF WISCONSIN,

Plaintiff,

Case No. 04-CV-1709
Unclassified - Civil: 30703

v.

AMGEN INC., et al.,Defendants.

**NOVARTIS PHARMACEUTICALS CORPORATION'S RESPONSES AND
OBJECTIONS TO PLAINTIFF STATE OF WISCONSIN'S SEVENTH SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wisconsin Statutes §§ 804.01 and 804.09, the Wisconsin Supreme Court Rules, and the Dane County Circuit Court Rules (collectively, the "Wisconsin Rules"), Defendant Novartis Pharmaceuticals Corporation ("NPC"), by its undersigned counsel, responds as follows to Plaintiff State of Wisconsin's Seventh Set of Requests for Production of Documents To All Defendants (the "Request"), served on or about February 4, 2008:

GENERAL OBJECTIONS

A. By responding to the Request, NPC does not waive or intend to waive: (i) any objections as to the competency, relevancy, materiality, or admissibility as evidence, for any purpose, of any documents or information produced in response to the Request; (ii) the right to object on any ground to the use of the documents produced in response to the Request at any hearing or trial; (iii) the right to object on any ground at any time to a demand for further responses to the Request; or (iv) the right at any time to revise, correct, add to, supplement, or clarify the response contained herein.

B. NPC objects to this Request to the extent that it purports to seek information protected by the attorney-client privilege, work-product doctrine, common-interest doctrine, joint-defense privilege, or any other applicable privileges or protections.

C. By responding that it will produce documents in response to the Request, NPC does not assert that it has responsive materials or that such materials exist, only that it will conduct a reasonable search and make available responsive, non-privileged documents. No objection, or lack thereof, is an admission by NPC as to the existence or non-existence of any documents.

D. This response is based on NPC's investigation of those sources within its control where it reasonably believes responsive documents or information may exist. NPC reserves the right to amend or supplement this response in accordance with the applicable rules and Court orders with additional information, documents, or objections that may become available or come to NPC's attention, and to rely upon such information, documents, or objections in any hearing, trial or other proceeding in this litigation.

E. NPC objects to Plaintiff's "Definitions" and "Instructions" to the extent that they purport to expand upon or alter NPC's obligations under the Wisconsin Rules.

F. NPC objects to the Request to the extent that it purports to require NPC to produce "all" documents described by the Request as unduly burdensome, cumulative, duplicative, and vexatious on its face. NPC will search for and produce documents sufficient to provide the information sought by the Request, and where appropriate (*i.e.*, where non-identical documents provide additional relevant information), NPC will produce such documents.

G. NPC objects to the Request to the extent that it seeks information not contained in documents that currently exist at NPC and purport to require NPC to create, compile, or develop new documents.

H. NPC objects to the Request to the extent that it seeks production of documents or information not in NPC's custody or control, publicly available documents or information, documents or information equally available to Plaintiff, or documents or information more appropriately sought from third parties to whom subpoenas or requests could be or have been directed.

I. Given the confidential and proprietary nature of the documents requested, NPC's production of documents is subject to and in reliance upon the Protective Order entered in this action by the Circuit Court for Dane County, Wisconsin on November 29, 2005.

J. NPC objects to this Request to the extent that it information outside the limitations periods applicable to the claims in the Second Amended Complaint, or beyond the time period relevant to this litigation, as such information is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. NPC's production of any documents outside of the limitations periods applicable to the claims in the Second Amended Complaint in this action does not constitute a waiver by NPC of this objection. In addition, NPC objects to this Request to the extent that it purports to require that NPC search for and produce documents generated or assembled either prior to January 1, 1997, which was the date that NPC was created by operation of merger following approval by the Federal Trade Commission on December 17, 1996, or after September 30, 2003, the date on which the State of Nevada's Second Amended Complaint in *State of Nevada v. Am. Home Prods Corp., et al.*, Cause No. CV-N-02-0202-ECR (D. Nev.), brought by the Nevada Attorney General and

containing similar allegations against NPC to those alleged by Plaintiff, was publicly filed, thereby placing Plaintiff on notice, no later than that date, of the allegations against NPC, on the grounds that such documents are neither relevant to the subject matter of this action, nor reasonably calculated to lead to the discovery of admissible evidence. NPC's production of any documents outside of these dates does not constitute a waiver by NPC of this objection.

K. NPC hereby incorporates by reference as if fully set forth herein any objection or reservation of rights made by any other Defendant in this action to the extent such objection or reservation of rights is not inconsistent with NPC's position in this action.

L. The documents and information produced in response to this Request are for use in this litigation and for no other purpose.

OBJECTIONS TO DEFINITIONS

1. The terms "you," "your," or "your company" shall mean each defendant, and its subsidiaries, divisions, predecessors, officers, agents and all other persons acting or purporting to act on behalf of each defendant or their subsidiaries or predecessors.

OBJECTION: NPC objects to Definition No. 1 as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence and states that all responses contained herein are on behalf of Novartis Pharmaceuticals Corporation.

2. The words "document" and "documents" are used in the broadest possible sense and refer, without limitation, to all written, printed, typed, photostatic, photographed, recorded or otherwise reproduced communications or representations of every kind and description, whether comprised of letters, words, numbers, pictures, sounds, or symbols, or any combination thereof, whether prepared by hand or by mechanical, electronic, magnetic, photographic, or other means, as well as audio or video recordings of communications, oral statement, conversations or events. This definition includes, but it not [sic] limited to, any and all of the following: day-timers, journals, logs, calendars, handwritten notes, correspondence, minutes, records, messages, memoranda, telephone memoranda, diaries, contracts, agreements, invoices, orders, acknowledgements, receipts, bills, statements, appraisals, reports, forecasts, compilations, schedules, studies, summaries, analyses, pamphlets, brochures, advertisements, newspaper clippings, tables, tabulations, financial statements, working papers, tallies, maps, drawings, diagrams, sketches, x-rays, charts, labels, packaging, plans, photographs, pictures, film, microfilm, microfiche, computer-stored or computer-readable data, computer programs,

computer printouts, telegrams, telexes, telefacsimiles, tapes, transcripts, recordings, and all other sources or formats from which data, information or communications can be obtained. Any preliminary versions, drafts, or revisions of any of the foregoing, any document which has or contains any attachment, enclosure, comment, notation, addition, insertion, or marking of any kind which is not part of another document, or any document which does not contain a comment, notation, addition, insertion, or marking of any kind which is part of another document, is to be considered a separate document.

OBJECTION: NPC objects to Definition No. 2 to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, NPC's obligation under the Wisconsin Rules. NPC further objects to this definition to the extent that it requires NPC to: (i) produce documents or data in a particular form or format; (ii) convert documents or data into a particular or different file format; (iii) produce data, fields, records, or reports about produced documents or data; (iv) produce documents or data on any particular media; (v) search for and/or produce and documents or data on back-up tapes (or other non-readily accessible media); (vi) produce any proprietary software, data, programs, or databases; or (vii) violate any licensing agreement, copyright laws, or proprietary rights of any third party.

OBJECTIONS TO INSTRUCTIONS

1. In responding to these requests, Defendants are required to produce all responsive documents that are in the possession, custody, or control of any of them or any of their agents.

2. All documents that respond, in whole or in part, to any portion of the production requests below shall be produced in their entirety, including all attachments and enclosures.

3. If you withhold any document requested on the basis of a claim that it is protected from disclosure by privilege, work product, or otherwise, provide the following information separately for each such document:

- (a) The name and title of every author, sender, addressee, and recipient by category;
- (b) The date of the document;
- (c) The name and title of each person (other than stenographic or clerical assistants participating in preparation of the documents);

- (d) The name and title of each person to whom the contents of the documents have been communicated by copy, exhibition, reading, or summary;
- (e) A description of the nature and subject matter of the document is protected from disclosure;
- (f) A statement of the basis on which it is claimed that the document is protected from disclosure; and
- (g) The name and title of the person supplying the information requested in subparagraph(s) (a) through (f) above.

4. Notwithstanding a claim that a document is protected from disclosure, any document so withheld must be produced with the portion claimed to be protected excised.

OBJECTION: NPC objects to Instructions Nos. 1 - 4 to the extent that they seek to impose any obligation in conflict with or beyond those imposed by the Wisconsin Rules. NPC states that it will search for and produce documents in accordance with the Wisconsin Rules.

RESPONSE AND OBJECTIONS TO DOCUMENT REQUEST NO. 22

NPC incorporates by reference each of the foregoing General Objections, Objections to Definitions, and Objections Instructions in the following Response and Objections to Document Request No. 22 as if fully set forth within. To the extent that NPC states that it will search for and produce documents responsive to the Request, such statement is made subject to, and without waiver or limitation of, all Objections.

DOCUMENT REQUEST NO. 22 All documents relating to your purchase, license, or receipt, of pricing information, including but not limited to average wholesale prices (“AWPs”) or wholesale acquisition costs (“WACs”) from First DataBank, Red Book, or Medispan for your drugs or the drugs of your competitors, including but not limited to contracts or license agreements. This request includes, but is not limited to, your purchase, license, or receipt of First DataBank’s National Drug Data File (“NDDF”). In addition, this request includes, but is not limited to, contracts or license agreements between you and First DataBank, Red Book, or Medispan, as well as contracts or license agreements between you and any other party that provides pricing information from First DataBank, Red Book, or Medispan (for example, agreements between you and DMD America in connection with its “Analysource” product).

RESPONSE TO DOCUMENT REQUEST NO. 22: NPC objects to Request No. 22 on the grounds that it seeks production of documents relating to “pricing information” without regard to whether such pricing information is relevant to any issue in this action, and it is therefore overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing General and Specific Objections, NPC states that it has already produced documents responsive to Document Request No. 22 in prior productions to Plaintiff, and NPC will undertake a reasonable search for and produce additional responsive documents sufficient to show the terms and conditions under which NPC obtains pricing information from First DataBank, Red Book, and/or MediSpan, if any exist.

Dated this 5th day of March, 2008.

Respectfully submitted,

Novartis Pharmaceuticals Corporation

By its attorneys,

A handwritten signature in cursive script that reads "Christine A. Braun". The signature is written in black ink and is positioned above a horizontal line.

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STATE OF WISCONSIN

CIRCUIT COURT
Branch 7

DANE COUNTY

STATE OF WISCONSIN,

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Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of March, 2008, a true and correct copy of Novartis Pharmaceuticals Corporation's Responses and Objections to Plaintiff State of Wisconsin's Seventh Set of Requests for Production of Documents To All Defendants was served on all counsel of record via LexisNexis File and Serve.

I also certify that I caused a true and correct copy of this document to be served by First Class Mail upon the following attorneys:

Atty. P. Jeffrey Archibald
Atty. Charles Barnhill
Atty. William P. Dixon
Atty. Cynthia R. Hirsch
Atty. Robert S. Libman

Dated this 5th day of March, 2008.


Christine A. Braun