
STATE OF WISCONSIN,)	
)	
Plaintiff,)	Case No.: 04-CV-1709
)	
v.)	
)	
ABBOTT LABORATORIES, et. al.,)	
)	
Defendants.)	

**TAP PHARMACEUTICAL PRODUCTS INC.’S RESPONSES AND OBJECTIONS TO
PLAINTIFF STATE OF WISCONSIN’S SEVENTH SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wis. Stat. §§ 804.01 and 804.09, defendant TAP Pharmaceutical Products Inc. (“TAP”), by its attorneys, objects and responds to Plaintiff’s Seventh Set for Requests for Production of Documents to All Defendants (“Requests”) as follows:

PRELIMINARY STATEMENT

1. These responses and objections are made solely for the purposes of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and to any and all other objections that may be applicable at a trial or other hearing or proceeding, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. TAP’s responses and objections shall not be deemed to constitute admissions:
- a. that any particular document or thing exists, is relevant, non-privileged, or admissible in evidence; or
 - b. that any statement or characterization in the Requests is accurate or complete.

3. TAP's responses are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and TAP reserves the right to amend its responses and to raise any additional objections it may have in the future.

These responses are made based upon the typical or usual interpretation of words contained in the Requests, unless a specific definition or instruction has been provided and/or agreed upon.

4. To the extent TAP's responses to Plaintiff's Requests contain confidential information subject to the Protective Order entered on November 29, 2005 in this Matter, they must be treated accordingly.

5. Where TAP states herein that it will produce documents in accordance with the Wisconsin Rules of Civil Procedure, it will provide such documents to the extent they exist and can be reasonably obtained. By stating that TAP will produce any documents or things responsive to a particular request, TAP does not represent that any such documents or things exist or are within its possession, custody or control. TAP's responses are limited to documents within its possession, custody or control, and that are reasonably accessible.

6. TAP's responses to Plaintiff's Requests are limited to the TAP products currently at issue in this litigation, namely certain NDCs of Prevacid[®] and PreVPac[®] (hereinafter referred to as "Prevacid[®]").

7. TAP's responses to Plaintiff's Requests are submitted without prejudice to TAP's right to produce evidence of any subsequently discovered fact. TAP accordingly reserves its right to further production as additional facts are ascertained.

8. The information and documents supplied herein are for use in this litigation and for no other purpose.

GENERAL OBJECTIONS

TAP objects generally to the Requests as follows:

1. TAP objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff intends to expand upon or alter TAP's obligations under the Wisconsin Rules of Civil Procedure and the Court's Local Rules and Orders. TAP will comply with applicable rules of civil procedure in providing its responses and objections to the Requests.
2. TAP objects to each Request to the extent that it calls for the identification or production of documents or information not relevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence.
3. TAP objects to the definition of "Document" and "Documents" as vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. TAP further objects to this definition to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, TAP's obligations under the Wisconsin Rules of Civil Procedure and the Court's Local Rules and Orders. TAP further objects to this definition to the extent that it purports to require TAP to identify or produce documents or data in a particular form or format, to convert documents or data into a particular file format, to produce documents or data on any particular media, to search for and/or produce or identify documents or data on back-up tapes, to produce any proprietary software, data, programs or databases, to violate any licensing agreement or copyright laws, or to produce data, fields, records, or reports about produced documents or data. The production of any documents or data or the provision of other information by TAP as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection. TAP further objects to this definition to the extent it seeks information protected by the attorney-client privilege, the work product doctrine,

the consulting expert privilege, or any other applicable privilege, rule or doctrine.

4. TAP objects to the definition of “You,” “Your,” and “Your Company” as overly broad and unduly burdensome. In responding to these Requests, TAP will search for and produce information and documents, not already produced, from divisions responsible for selling and marketing the Prevacid®, to non-hospitals and from the individuals responsible for communicating with representatives of the Medicare and Wisconsin Medicaid agencies regarding the Subject Drugs. TAP further object to this definition to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, TAP’s obligations under the Wisconsin Rules of Civil Procedure and the Court’s Local Rules and Orders.

5. TAP objects to any Request that seeks information protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, by any common interest or joint defense agreement, or by any other applicable privilege or protection. To the extent that any such protected documents or information are inadvertently produced in response to these Requests, the production of such documents or information shall not constitute a waiver of TAP’s right to assert the applicability of any privilege or immunity to the documents or information, and any such document or information should be returned to TAP’s counsel immediately upon discovery thereof.

6. TAP objects to each Request to the extent that it calls for production of documents or information not within its possession, custody, or control. In responding to these requests, TAP has undertaken or will undertake a diligent and reasonable search of documents and information within TAP’s current possession, custody, or control.

7. TAP objects to each Request to the extent that it calls for information that is confidential, proprietary, and/or a trade secret of a third party or is protected by an agreement

with a third-party. Any such materials produced will be subject to the Protective Order entered in this action.

8. TAP objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in these Requests. TAP's response that it will produce documents in connection with a particular Request is not intended to indicate that TAP agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Requests or that such implications or characterizations are relevant to this action.

9. TAP objects to each Request to the extent that it seeks disclosure of information that is a matter of public record, is equally available to the Plaintiff, or is already in the possession of the Plaintiff.

10. TAP objects to the definition of the time period covered by the Requests to the extent it encompasses any time period after June 3, 2004, the date Plaintiff filed its original Complaint in this case.

11. TAP expressly incorporates the above General Objections into each specific response to the Requests set forth below as if set forth in full therein. The response to a Request shall not operate as a waiver of any applicable specific or general objection to the Request.

RESPONSE TO SPECIFIC REQUESTS

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: In addition to its General Objections, which are incorporated herein by reference, TAP objects to Request No. 22 on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it: (a) seeks documents relating to “pricing information” not at issue in this litigation; and (b) is not limited to Prevacid[®] and PrevPac[®], the drugs identified in Plaintiff’s Complaint, or, even more broadly, TAP products. TAP further objects to the following terms or phrases “purchase, license, or receipt,” “pricing information,” “competitors,” “any other party that provides,” and “in connection with” as vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. TAP further objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work-product doctrine. In addition, TAP objects to this Request to the extent it seeks information that is confidential.

Subject to and without waiving its General and Specific Objections, TAP agrees to produce its license agreement(s) with pricing compendia.

Dated: March 5, 2008

/s/ Lee Ann Russo

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*Attorneys for Defendant TAP Pharmaceutical
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Certificate of Service

I, Lee Ann Russo., hereby certify that on this 5th day of March 2008, a true and correct copy of **TAP PHARMACEUTICAL PRODUCTS INC.'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 by Lexis Nexis File & Serve®.

/s/ Lee Ann Russo
Lee Ann Russo