
STATE OF WISCONSIN,)	
)	
Plaintiff,)	Case No. 04-CV-1709
)	
v.)	
)	
AMGEN INC., <i>et al.</i> ,)	
)	
Defendant.)	
)	

**DEFENDANT TAP PHARMACEUTICAL PRODUCTS INC.’S RESPONSES TO
PLAINTIFF STATE OF WISCONSIN’S EIGHTH SET OF REQUESTS FOR
PRODUCTION**

Pursuant to Wis. Stat. §§ 804.01 and 804.09, defendant TAP Pharmaceutical Products Inc. (“TAP”), by its attorneys, objects and responds to Plaintiff’s Eighth Set of 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 a Protective Order entered on November 29, 2005 in this matter, such information must be treated accordingly.

5. If and 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 listed in Plaintiff's Second Amended Complaint (the "Complaint"), namely certain NDCs of Prevacid® and PrevPac® (hereinafter referred to as "Prevacid®").

7. In responding to these Requests, TAP will search for information from those individuals responsible for pricing, selling and marketing the drugs identified in Plaintiff's Complaint and from the individuals responsible for communicating with Plaintiff's representatives and with the pricing compendia regarding Prevacid®.

8. 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.

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

GENERAL OBJECTIONS

TAP makes the following General Objections, which apply to each and every Request, and are incorporated by reference in each and every response below as if set forth fully therein. Failure to reiterate a General Objection below does not constitute a waiver of that or any other objection. 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.

1. TAP objects to each Request to the extent that they are unduly burdensome, overbroad, or duplicative, or seek documents that are neither relevant to the issues presented in this case nor reasonably calculated to lead to the discovery of admissible evidence.

2. TAP objects to these Requests because they are overly broad and unduly burdensome to the extent they purport to require TAP to search for documents going back at least fifteen years.

3. TAP objects to the Requests to the extent they are vague or ambiguous, are not described with reasonable particularity, lack a readily discernible meaning, and/or require TAP to speculate as to the documents sought.

4. TAP objects to the Requests to the extent that they seek to impose discovery obligations broader than, or inconsistent with, obligations imposed by the Wisconsin Rules of

Civil Procedure.

5. TAP objects to the Requests because they are overly broad, unduly burdensome, not relevant to the subject matter of this action, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they seek documents that do not relate generally to the TAP drugs that are the subject of Plaintiff's claims.

6. TAP objects to the Requests because they are overly broad, unduly burdensome, not relevant to the subject matter of this action, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they seek documents relating to sales to hospitals. Unless otherwise noted, to the extent a request seeks documents relating to TAP's sales, TAP's responses are limited to sales of the subject drugs to non-hospital providers.

7. TAP objects to the Requests because they are overly broad, unduly burdensome, not relevant to the subject matter of this action, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they seek documents relating to health insurance programs not at issue in this action. Unless otherwise indicated, TAP's responses are limited to Wisconsin Medicaid.

8. TAP objects to the Requests because they are overly broad, unduly burdensome, vague and ambiguous to the extent they contain any implications and/or explicit or implicit characterizations of the facts, events, circumstances, or issues addressed in these Requests. Any response by TAP is not intended to indicate that TAP agrees with any such implications or characterizations, or that such implications or characterizations are relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.

9. TAP objects to the Requests to the extent that they are duplicative of other discovery served by the Plaintiff, including any other Requests for Production or Interrogatories,

and are therefore overly burdensome and harassing.

10. TAP objects to the Requests to the extent that they call for documents protected from disclosure under the attorney-client privilege, joint defense and/or common interest privilege, the work product doctrine, or any other legally recognized privilege, immunity, or exemption from discovery. To the extent that any such protected document(s) is inadvertently disclosed in response to the Requests, the production of such document(s) shall not constitute a waiver of TAP's rights to assert the applicability of any such privilege or immunity, and any such document(s) shall be returned to TAP's counsel immediately upon discovery thereof.

11. TAP objects to the Requests to the extent that they call for documents that are confidential, proprietary, commercially sensitive, and/or trade secret of a third party.

12. TAP objects to the Requests to the extent that they may be construed as requesting confidential documents relating to a patient. TAP will not provide any such information to the extent it is under any obligation to maintain patient confidentiality unless the patient grants permission to do so or such information is produced subject to the confidentiality agreement entered in this case.

13. TAP objects to the Requests to the extent that they seek documents not within TAP's knowledge, possession, custody, or control or are more appropriately sought from third parties to whom requests for information have been or may be directed.

14. TAP objects to the Requests to the extent they seek Documents that are publicly available, equally available to Plaintiff, or already in the possession of Plaintiff.

15. No objection made herein, or lack thereof, shall be deemed a statement by TAP as to the existence or nonexistence of any document.

16. TAP's responses to these Requests are based on a reasonable and diligent

investigation conducted to date of those sources within its control where TAP reasonably believes responsive documents may exist. TAP reserves the right to amend or supplement these responses with additional documents that may become available or come to its attention in the future, and to rely upon such documents in any hearing, trial, or other proceeding in this litigation.

17. The documents supplied herein are for use in this litigation and for no other purpose, and are supplied subject to that express limitation.

18. TAP hereby incorporates by reference as if fully set forth herein any objection or reservation of rights made by any co-defendant in this action to the extent such objection or reservation of rights is not inconsistent with TAP's position in this litigation.

19. TAP objects to these Requests to the extent they encompass any time period after June 3, 2004, the date Plaintiff filed its original Complaint in this case.

OBJECTION TO DEFINITIONS & INSTRUCTIONS

1. 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 information from the individuals responsible for pricing, selling and marketing Prevacid® to non-hospitals and from the individuals responsible for communicating with Plaintiff's representatives and with the pricing compendia regarding Prevacid®. 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.

2. 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.

3. TAP objects to Instructions No. 1 through 4 to the extent they exceed or alter the scope of permissible discovery under the Wisconsin Rules of Civil Procedure, the Court's Local Rules and Orders, or other applicable law.

4. TAP objects to Instruction No. 1 to the extent it calls for information protected from disclosure under the attorney-client privilege, joint defense and/or common interest privilege, the work product doctrine, or any other legally recognized privilege, immunity, or exemption from discovery. To the extent that any such protected material is inadvertently disclosed in response to the Requests, the production of such information shall not constitute a waiver of Abbott's rights to assert the applicability of any such privilege or immunity, and any such information and documents shall be returned to TAP's counsel immediately upon discovery

thereof.

5. TAP objects to Instruction No. 2 to the extent that it purports to require TAP to 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.

RESPONSE TO SPECIFIC REQUESTS

REQUEST FOR PRODUCTION NO. 23: Attached hereto as Exh. 1 is a copy of a blank form entitled “HDMA Standard Product Information Pharmaceutical Products.” Please produce all such forms that you have completed (as to any or all of the information on such forms) for any of your drugs from January 1, 1991 to the present as well as all documents that identify each person or entity, if any (including but not limited to Cardinal Health, McKesson Corporation, or Amerisource Bergen Corporation, or any of their predecessor entities), to whom you sent or provided any such forms and the dates that you sent or provided such forms to any such person or entity.

RESPONSE: In addition to the General Objections set forth above, TAP objects to this Request on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant to the subject matter of the pending action nor likely to lead to the discovery of admissible evidence. TAP further objects to this Request to the extent it seeks information unrelated to the Plaintiff’s Complaint and is not limited to Prevacid®. TAP further objects as the Request seeks information beyond the relevant time period. TAP further objects to this Request because the phrase “all such forms” is vague and ambiguous. TAP further objects to the extent this Request seeks documents or information equally available to Plaintiff or already in Plaintiff’s control, including any documents and information produced by wholesalers. Subject

to and without waiving its objections, TAP agrees to conduct a reasonable search for non-privileged documents responsive to this Request, limited to Prevacid® and the relevant time period, and to produce any such documents to the extent they exist and are reasonably accessible.

REQUEST FOR PRODUCTION NO. 24: Any documents reflecting communications with drug wholesalers (including but not limited to Cardinal Health, McKesson Corporation, or Amerisource Bergen Corporation, or any of their predecessor entities) relating to: (a) AWP, SWP, WAC, MAC, FUL, or direct price; or (b) any pricing compendia including but not limited to First DataBank, Medispan, and Red Book.

RESPONSE: In addition to the General Objections set forth above, TAP objects to this Request on the grounds that it is overly broad, unduly burdensome, and seeks the production of documents that are neither relevant to the subject matter of the pending action nor likely to lead to the discovery of admissible evidence. TAP further objects to this Request to the extent it seeks information unrelated to the Plaintiff's Complaint and is not limited to Prevacid®. TAP further objects to the Request to the extent it is duplicative of Plaintiff's other discovery requests and seeks information beyond the relevant time period. TAP further objects to the extent this Request seeks documents or information equally available to Plaintiff or already in Plaintiff's control, including any documents and information produced by wholesalers. Subject to and without waiving its objections, TAP agrees to conduct a reasonable search for non-privileged documents responsive to this Request, limited to Prevacid® and the relevant time period, and to produce any such documents to the extent they exist and are reasonably accessible.

REQUEST FOR PRODUCTION NO. 25: Documents relating to any contract or agreement with any health care provider (including but not limited to retail pharmacies (chain or independent), doctors, or long-term care facilities) to share in the profits earned by such provider in connection with the provider's sale or dispensing of any of your prescription drugs.

RESPONSE: In addition to the General Objections set forth above, TAP objects to this Request on the grounds that it is overly broad, unduly burdensome, and seeks the production of documents that are neither relevant to the subject matter of the pending action nor likely to lead

to the discovery of admissible evidence. TAP objects to this Request to the extent it seeks information unrelated to the Plaintiff's Complaint, is not limited to documents concerning Prevacid®, and is not limited to providers who participate in the Wisconsin Medicaid program. TAP further objects as this Request seeks information beyond the relevant time period.

Dated: August 21, 2008

TAP PHARMACEUTICAL PRODUCTS INC.

/s/ Lee Ann Russo

Daniel E. Reidy

James R. Daly

Lee Ann Russo

JONES DAY

77 West Wacker

Chicago, IL 60601-1692

(312) 782-3939

(312) 782-8585 (fax)

CERTIFICATE OF SERVICE

The undersigned certifies that she caused a copy of the foregoing document, Defendant TAP Pharmaceutical Products Inc.'s Objections and Responses to Plaintiff's Eighth Set of Requests for Production of Documents to All Defendants, to be served upon all counsel of record by LexisNexis File & Serve on this 21st day of August, 2008.

/s/ Lee Ann Russo _____
Lee Ann Russo