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

**OBJECTIONS AND RESPONSES OF AVENTIS BEHRING, L.L.C., N/K/A ZLB
BEHRING, L.L.C., TO PLAINTIFF’S EIGHTH SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wis. Stat. §§ 804.01 and 804.09, Defendant Aventis Behring LLC, n/k/a ZLB Behring LLC (“Behring”), by its attorneys, hereby responds and objects to Plaintiff’s Eighth Set of Requests for Production of Documents to All Defendants (“Requests”), dated July 22, 2008, as follows:

PRELIMINARY STATEMENT

1. As to all matters referred to in these responses and objections to the Requests, Behring’s investigation continues. The specific responses set forth below, and any production made consistent with the accompanying requests, are based upon, and necessarily limited by, information now available to Behring. Because of the over-breadth of the Requests and the vague, nonspecific nature of the claims against Behring in the Second Amended Complaint (“Complaint”), it is not possible for Behring to anticipate all possible grounds for objection with respect to the particular Requests set forth herein. Behring reserves the right to modify or supplement these answers and objections, to raise any additional objections deemed necessary and appropriate in light of the results of any further review, and to present at any

proceeding and at trial any further information and documents obtained during discovery and preparation for trial.

2. By responding to a particular Request, Behring does not represent that it has materials responsive to the Request or that such materials exist or do not exist. No objection made herein, or lack thereof, is an admission by Behring of the existence or non-existence of any documents. Any production of documents or information responsive to Requests to which Behring has objected is not intended to and does not waive those or any other objections.

3. Subject to and without waiving any objections set forth herein, Behring will produce responsive documents and/or make them available for inspection and designation for copying, at Plaintiff's expense, at a mutually convenient date, time, and location.

GENERAL OBJECTIONS

1. Behring objects to the "Definitions" and "Instructions" to these Requests on the grounds that they are unduly burdensome, vague, and ambiguous and to the extent they attempt to impose obligations on Behring other than those imposed or authorized by the Wisconsin Supreme Court Rules, the Wisconsin Rules of Civil Procedure, and/or any applicable order of this Court.

2. Behring objects to the definition of "you," "your," or "your company," as set forth in Plaintiff's Definition No. 1 to the extent the Requests are directed to not only Behring but to its "subsidiaries, divisions, predecessors, officers, agents and all other persons acting or purporting to act on behalf of [Behring] or its subsidiaries or predecessors" on the grounds that such an expansive Request is overly broad, unduly burdensome, and calls for the production of documents that are not relevant to the subject matter of the pending action and not reasonably calculated to lead to the discovery of admissible evidence. Behring will conduct a reasonable

search for responsive documents but does not undertake any responsibility to search for documents in the possession of other persons or separate corporate entities, which are not in Behring's possession, custody, or control.

3. Behring objects to the definition of "document" and "documents" as set forth in Plaintiff's Definition No. 2 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Behring further objects to this definition to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Behring's obligations under the applicable Wisconsin Rules of Civil Procedure. Behring further objects to this definition to the extent that it purports to require Behring 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 Behring as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

4. Behring objects to the Requests to the extent that they demand production of any document covered by the attorney-client privilege, work product privilege, or any other applicable privilege. In the event any privileged document is produced by Behring, its production is inadvertent and does not constitute waiver of any privilege.

5. Behring objects to the Requests to the extent that they are unreasonably cumulative or that they call for documents that are publicly available, already in the possession, custody, or control of the Wisconsin Attorney General's Office, have already been made

available to the Attorney General, or are obtainable from some other source that is more convenient, less burdensome or less expensive, on the grounds that such production is duplicative and unduly burdensome.

6. Behring objects to any implications and to any explicit or implicit characterization of the facts, events, circumstances, or issues contained in the Requests. Behring's response that it will produce documents in connection with a particular Request, or that it has no responsive documents, does not indicate that any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Requests is accurate, relevant to this litigation, or that Behring agrees with such implications or characterizations.

7. Behring objects to the Requests to the extent that they call for Behring to restore and produce archived data that presently exists on media no longer utilized by Behring and which requires the use of equipment and/or software no longer used or maintained by Behring, on the grounds that the Request is overly broad, unduly burdensome, duplicative, and not reasonably calculated to lead to the discovery of admissible evidence. Behring further objects to the Requests to the extent that they seek production of any data that does not reside in complete form in an active and readily acceptable format, is presently unreadable or unusable, or cannot be verified as accurate.

8. The documents and information provided in response to the Requests are for use in this litigation and for no other purpose.

9. Behring objects to the Requests as overly broad and unduly burdensome to the extent that they call for the identification of "each," "any" or "all" documents or items of information when relevant information can be obtained from fewer than "each," "any" or "all" documents or information. Behring objects to the Requests to the extent they seek information

or documents other than information or documents that can be located upon a search of files or other sources where such information or documents reasonably can be expected to be found.

10. Behring objects to the Requests to the extent they purport to impose upon Behring duties and/or obligations broader than or inconsistent with those imposed by the Wisconsin Supreme Court Rules, the Wisconsin Rules of Civil Procedure, and the Rules and orders of this Court.

Behring expressly incorporates these 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 a Request.

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

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: Behring objects to this Request on the grounds that it is overly broad and unduly burdensome. Behring specifically objects to this Request to the extent it seeks documents relating to products other than the targeted drugs, is not limited to Wisconsin, and seeks documents outside of the relevant timeframe and, therefore, exceeds the current scope of permissible discovery. Behring also objects to this Request to the extent it seeks documents not in Behring’s possession, custody, or control, or documents more likely in the possession of third parties.

Subject to and without waiving the objections set forth above, Behring states that it will conduct reasonably diligent searches and produce relevant, responsive, non-privileged documents, if any, for the drugs at issue, to the extent such documents exist and are located.

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: Behring objects to this Request on the grounds that it is overly broad, vague, and unduly burdensome. Behring specifically objects to this Request to the extent it seeks documents relating to products other than the targeted drugs, is not limited to Wisconsin, and seeks documents outside of the relevant timeframe and, therefore, exceeds the current scope of permissible discovery.

Subject to and without waiving the objections set forth above, Behring states that it will conduct reasonably diligent searches and produce relevant, responsive, non-privileged documents, if any, for the drugs at issue, to the extent such documents exist, are located, and have not already been produced. Behring also refers Plaintiff to its response to Request for Production No. 23.

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: Behring objects to this Request on the grounds that it is overly broad and unduly burdensome. Behring specifically objects to this Request to the extent it seeks documents relating to products other than the targeted drugs, is not limited to health-care providers in Wisconsin, and seeks documents outside of the relevant timeframe and, therefore,

exceeds the current scope of permissible discovery. Behring further objects to this Request on the grounds that the phrase “share in the profits earned” is vague, ambiguous, and undefined.

Subject to and without waiving the objections set forth above, Behring states that it did not enter into contracts or agreements with health-care providers to “share in the profits earned by such provider in connection with the provider’s sale or dispensing of any of your prescription drugs” and, therefore, has no documents responsive to this Request.

Dated: August 21, 2008

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ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of August, 2008, a true and correct copy of the Objections and Responses of Aventis Behring LLC, n/k/a ZLB Behring LLC, to Plaintiff's Eighth Set of Requests for Production of Documents to All Defendants was served on counsel of record by Lexis Nexis File & Serve.

/s/ Jonathan T. Rees _____
Jonathan T. Rees