STATE OF WISCONSIN **CIRCUIT COURT BRANCH 10** **DANE COUNTY**

STATE OF WISCONSIN,

Plaintiff,

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

v.

AMGEN INC., et al.,

Defendants.

DEFENDANTS IVAX CORPORATION AND IVAX PHARMACEUTICALS, INC.'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S FIFTH SET OF INTERROGATORIES TO ALL DEFENDANTS

Pursuant to Wisconsin Statutes §§ 804.01, 804.08 and Wisconsin Rule of Civil Procedure 804.04, Defendants Ivax Corporation and Ivax Pharmaceuticals, Inc. (collectively "Ivax"), by their counsel, assert these responses and objections to Plaintiff State of Wisconsin's Fifth Set of Interrogatories To All Defendants ("Interrogatory"), dated November 8, 2007, and propounded by Plaintiff State of Wisconsin ("Plaintiff", "Wisconsin" or "State"), as follows:

GENERAL OBJECTIONS

Ivax expressly incorporates all of the General Objections set forth below into the Specific Objections for each Interrogatory. Any specific objections provided are made in addition to these General Objections and failure to reiterate a General Objection below does not constitute a waiver of that or any other objection.

1. These responses are made without in any way waiving or intending to waive: (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any information produced in response to this Interrogatory;

(b) the right to object on any ground to the use of the documents or information produced in response to the Interrogatory at any hearings or at trial; or (c) the right to object on any ground at any time for further responses to this Interrogatory.

2. Ivax reserves the right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein.

3. Ivax has not completed its investigation and discovery in this case. Accordingly, the specific responses set forth below and any production made pursuant to the accompanying document requests are based upon, and necessarily limited by, information now available to Ivax.

4. Ivax states that its responses are subject to the Protective Order entered on November 29, 2005 in this action.

5. Ivax objects to the Interrogatory to the extent that it demands the production of documents or information containing trade secrets, or proprietary, commercially sensitive or other confidential information.

6. Ivax objects to the disclosure, under any circumstance, of trade secret information where the probative value in this litigation is greatly exceeded by the potential harm to Ivax if the information were to fall into the hands of its competitors, and further asserts each and every applicable privilege and rule governing confidentiality to the fullest extent provided by the law and the Protective Order entered in this litigation.

7. Ivax objects to the Interrogatory to the extent it purports to impose duties and obligations on Ivax beyond the duties and obligations under the Wisconsin Rules of Civil Procedure

and the applicable local rules. Ivax will comply with its duties and obligations under the Wisconsin Rules of Civil Procedure and the applicable local rules.

8. Ivax states that the information supplied herein is for use in this litigation and for no other purpose.

9. Ivax objects to this Interrogatory to the extent that it seeks information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence, or are overly broad, unduly burdensome, ambiguous, or vague.

10. Ivax objects to Plaintiff's Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, or any other immunity, privilege or exemption from discovery recognized by any applicable law or rule. To the extent that any such protected information is inadvertently disclosed in response to this Interrogatory, the production of such information shall not constitute a waiver of Ivax's right to assert the applicability of any privilege or immunity, and any such information and documents shall be returned to Ivax's counsel immediately upon discovery thereof.

11. Ivax objects to Plaintiff's Interrogatory to the extent that it seeks any information beyond Ivax's possession, custody, or control.

12. Ivax objects to Plaintiff's Interrogatory to the extent that it calls for information that is more appropriately sought from third parties to whom requests have been or may be directed.

13. Ivax objects to the Interrogatory to the extent that it calls for the identification or production of publicly available documents or documents that could be obtained from Plaintiff's own files or other sources.

14. Ivax objects to Plaintiff's Interrogatory to the extent that it explicitly or implicitly characterizes facts, events, circumstances, or issues relating to the subject of this litigation.

15. Ivax's response to Plaintiff's Interrogatory shall not be construed in any way as an admission that any definition provided by Plaintiff is either factually or legally binding upon Ivax. Neither the fact that an objection is interposed to a particular Interrogatory, nor the fact that no objection is interposed, necessarily means that responsive information exists. Ivax's undertaking to furnish information responsive to Plaintiff's Interrogatory is subject to the general provision that Ivax only agrees to provide information to the extent that it can be identified on the basis of reasonable diligence.

16. Ivax objects to the Interrogatory to the extent that it demands the production of documents or information from outside of the statute of limitations timeframe applicable to the Plaintiff's claims in this action, or beyond the time period relevant to this action. Ivax objects to the Interrogatory as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it purports to require production of documents or seek information relating to a period of time after the filing of the Complaint on or around June 3, 2004.

17. Ivax objects to the Interrogatory to the extent it demands production of documents or information relating to Ivax's activities that are outside the scope of the Second Amended Complaint.

18. Ivax objects to the Interrogatory to the extent that it demands production of documents or information relating to Ivax's activities other than those which concern the State, on the grounds that such documents or information are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

19. Ivax reserves the right to assert additional objections to this Interrogatory as appropriate to amend or supplement these objections and responses in accordance with the applicable local rules and court orders and based on the results of its continuing investigation.

20. Ivax hereby incorporates by reference as if fully set forth herein any objection or reservation of rights made by any defendant in this action to the extent such objection or reservation of rights is not inconsistent with Ivax's position in this litigation. Ivax also hereby incorporates by reference as if fully set forth herein any and all objections and reservations of rights made by Ivax in this action in response to any other Interrogatories served upon Ivax by the State.

RESPONSE TO SPECIFIC INTERROGATORIES

INTERROGATORY NO. 13:

For each calendar year from 1993 to the present, identify the following:

(a) the gross annual sales of your drugs in the United States; and

(b) the percentage of the gross annual sales of your drugs in the United States that is attributable to Medicaid patients; *i.e.*, that results from sales to (or stated differently, reimbursement by) state Medicaid programs.

RESPONSE TO INTERROGATORY 13:

In addition to the General Objections and Conditions set forth above, Ivax objects to this Interrogatory on the grounds that it is vague, ambiguous, overly broad, and fails to identify with sufficient particularity the information sought. Ivax objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or the work-product doctrine. Ivax likewise objects to this Interrogatory to the extent that it calls for legal conclusions. Ivax further objects to this Interrogatory on the grounds that it purports to impose obligations that exceed those imposed by the Wisconsin Rules.

Moreover, Ivax objects to this Interrogatory to the extent that it seeks information unrelated to the Ivax drugs purportedly at issue in this litigation. Ivax further objects to this Interrogatory to the extent that it seeks information arising after the filing of the Complaint, *i.e.*, after June 3, 2004. Ivax objects to this Interrogatory insofar as it seeks information pertaining to the marketing and sale of drugs in states other than Wisconsin. In addition, Ivax objects to this Interrogatory to the extent it seeks information related to pharmaceutical products not reimbursed by Wisconsin Medicaid. Ivax reserves the right to assert additional objections to this Interrogatory as appropriate and to amend or supplement its response and objections in accordance with the applicable rules and court orders and based on results of its continuing investigation.

Subject to and without waiving the general and specific objections asserted herein, Ivax states as follows, based on information developed during the course of this case:

(a) Ivax states that it is producing documents and spreadsheets containing this information as it is kept in the ordinary course of Ivax's business. To the extent that this Interrogatory purports to require more, Ivax objects that it is overbroad, unduly burdensome, and not reasonably likely to lead to the discovery of admissible evidence

(b) Ivax states that it does not maintain the information necessary to answer this subpart in the normal or ordinary course of business. As such, any request for such information is by definition unduly broad and burdensome. In addition, as it is the State of Wisconsin, and not Ivax, that oversees and administers the Wisconsin Medicaid system, Ivax refers the Plaintiff to its own records as the proper repository of such information.

DATED: December 10, 2007

AS TO ALL OBJECTIONS:

/s/ Jennifer G. Levy

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Certificate of Service

I, Jennifer G. Levy, hereby certify that on this 10th day of December, 2007, a true and correct copy of the foregoing was served on all counsel of record by Lexis Nexis File & Serve®.

/s/ Jennifer G. Levy
Jennifer G. Levy