

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

Branch 7

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STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04CV1709

ABBOTT LABORATORIES, ET AL.,

Unclassified Civil: 30703

Defendants.

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**DEFENDANT ROXANE LABORATORIES, INC.'S,  
NKA BOEHRINGER INGELHEIM ROXANE, INC., SUPPLEMENTAL ANSWERS TO  
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

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Under Wis. Stat. § 804.08, Defendant Boehringer Ingelheim Roxane, Inc. ("Roxane"), by its attorneys, hereby supplements its answers to the First Set of Interrogatories to All Defendants submitted by the State of Wisconsin ("the State") as follows:

**RESERVATION OF RIGHTS**

As to all matters referred to in these supplemental answers to the First Set of Interrogatories to All Defendants, Roxane's investigation and discovery continues. The specific answers set forth below and any production made consistent with them are based upon, and necessarily limited by, information now available to Roxane. Roxane reserves the right to modify these objections and responses and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial.

## OBJECTIONS

Roxane incorporates by reference all of its objections both general and specific enumerated in Roxane's Responses and Objections to Plaintiff's Requests for Production, served on Plaintiff July 15, 2005.

INTERROGATORY NO. 1: Have you ever determined an average sales price or other composite price net of any or all Incentives for a Targeted Drug during the Defined Period of Time? If so, for each Targeted Drug for which you have made such a determination, identify:

- (a) The beginning and ending dates of each period applicable to each such determination;
- (b) the applicable class(es) of trade for which each determination was made;
- (c) each average sales price or composite price determined;
- (d) the person(s) most knowledgeable regarding the determination;
- (e) the methodology used to determine such prices;
- (f) your purpose(s) in making such determination;
- (g) whether you disclosed any average sales price or composite price so determined to any publisher, customer, or governmental entity. If so, identify each publisher, customer or governmental entity to whom each such price was disclosed and the corresponding date of the disclosure and
- (h) whether any such average sales price or composite price was treated as confidential or commercially sensitive financial information.

ANSWER TO INTERROGATORY NO. 1:

Subject to and without waiving its objections, Roxane states that various employees of Roxane may have from time to time determined an average sales price or other composite price, after discounts, for a Targeted Drug during the Defined Period of Time ("ASP"). Any ASP calculations performed by Roxane constituted individualized calculations of the amount one would derive by dividing sales dollars for a particular time period by the units sold during that same time period, after reducing credits allocated to the sale of the products. Any such ASP calculation performed did not yield an actual price charged for the subject products, nor did it yield average sales price or other composite price net of any or all Incentives for a Targeted Drug, but could include such matters as credits for services. Roxane did not have a standard methodology or practice of determining this average sales price, and had no practice of calculating "ASP" as defined by Plaintiff.

INTERROGATORY NO. 2: Identify each electronic database, data table or data file that you now maintain or have maintained during the Defined Period of Time in the ordinary course of business which contains a price for a Targeted Drug. For each such electronic data entry, identify, describe or produce the following:

- (a) the name or title of each such database, data table, or data file;
- (b) the software necessary to access and utilize such data entries;
- (c) describe the structure of each database, data table or data file identified in response to Request No. 2(a) above and identify all files or tables in each such database, data table or data file. For each such file or table, identify all fields and for each field describe its contents, format and location within each file or table record or row.

- (d) The current or former employee(s) with the most knowledge of the operation or use of each data entity identified above; and
- (e) the custodian(s) of such data entity.

ANSWER TO INTERROGATORY NO. 2:

Subject to and without waiving its objections, Roxane states that it has had a myriad of data tables and systems containing prices during the relevant time period. The charts below summarize, to the best of Roxane's IT personnel's present knowledge, the main systems and applications, not including e-mail.

1988 - June 1996

1988- June 1996	IBM AS/400	MAPICS	Custom code for chargebacks. ¶ 6).	Columbus, Ohio (Wilson Road facility)  Columbus, Ohio	Fireproof Records Center (third party storage facility, Columbus, Ohio)
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June, 1996 - November 2000

June 1996 - April 1997	AS/400	BPCS (Business Planning and Control System)	Custom code. In-house developed data warehouse.	BI Service Center, Connecticut	Iron Mountain in Connecticut.
April 1997- Nov. 2000	AS/400	BPCS	Developed data warehouse In-house-Burlington, Canada	Burlington, Canada	?

December, 2000 - Present

Dec. 2000-present	Hewlett Packard computer	SAP	Gentran  CARS system (Contract Administration and Rebate System).  ACTA data warehouse. Ridgefield, Connecticut.	Ridgefield, Connecticut.	Iron Mountain
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INTERROGATORY NO. 3: Describe each type of Incentive you have offered in conjunction with the purchase of any Targeted Drug. For each such Incentive, identify:

- (a) the type(s) of Incentive(s) offered for each Targeted Drug;
- (b) the class(es) of trade eligible for each Incentive;
- (c) the general terms and conditions of each Incentive; and
- (d) the beginning and ending dates of each period during which the Incentive was offered.

ANSWER TO INTERROGATORY NO. 3:

Subject to and without waiving its objections, Roxane states that it has customarily offered prompt pay discounts to wholesalers as an "incentive" (as defined by Plaintiff) for the wholesalers to pay for the drugs they purchase promptly. In addition, Roxane has provided a number of discount/rebate and related programs to the entities listed below:

Program	Time Period Used	Products involved in WI Case
Roxane Laboratories Wholesaler Source Program A Level (Sole Source Auto Sub) Participation	1996 1997 1998 1999 2000	Azathioprine Calcium Carbonate Dexamethasone Diclofenac Digoxin Furosemide Haloperidol Hydromorphone Ipratropium Bromide Lithium Carbonate Methadone Morphine Prednisone Propranolol Roxanol Roxicet Roxicodone Sodium Chloride Viramune
Roxane Laboratories Wholesaler Source Program B Level (Sole Source) Participation	1996 1997 1998 1999 2000	Methadone Roxanol Roxicodone Calcium Carbonate Dexamethasone Digoxin Furosemide Roxicet Azathioprine Diclofenac Hydroxyurea Ipratropium Bromide Lithium Carbonate Morphine Sulfate Prednisone Propranolol Sodium Chloride Haloperidol Hydromorphone

Program	Time Period Used	Products involved in WI Case
Roxane Laboratories Wholesaler Source Program C Level (multiple Vendor Participation)	1996	Methadone
	1997	Roxanol
	1998	Roxicodone
	1999	Roxicet
	2000	Calcium Carbonate Dexamethasone Digoxin Furosemide Lithium Citrate Azathioprine Diclofenac Ipratropium Bromide Lithium Carbonate Morphine Sulfate Prednisone Propranolol Sodium Chloride Haloperidol Hydromorphone
Roxane Loyalty Multisource Agreement Wholesaler	1996	Azathioprine
	1997	Hydroxyurea
	1998	
	1999	
	2000	
Roxane Loyalty Multisource Agreement Chain Warehouse	1996	Azathioprine
	1997	Hydroxyurea
	1998	
	1999	
	2000	
Roxane Respiratory Multisource Agreement Wholesaler	1998	Ipratropium Bromide
	1999	Sodium Chloride
	2000	
Roxane Respiratory Multisource Agreement Chain Warehouse	1998	Ipratropium Bromide
	1999	Sodium Chloride
	2000	
Roxane Select Multisource Agreement Chain Warehouse	1998	Diclofenac
	1999	Roxicet
	2000	Roxicodone Roxanol
Roxane Select Multisource Agreement Wholesaler	1998	Diclofenac
	1999	Roxicet
	2000	Roxicodone Roxanol
Roxane Commitment Agreement Wholesaler	1998	Ipratropium Bromide
	1999	Sodium Chloride
	2000	Azathioprine Hydroxyurea Diclofenac
Roxane Commitment Agreement Chain Warehouse	1998	Ipratropium Bromide
	1999	Sodium Chloride
	2000	Azathioprine Hydroxyurea Diclofenac

INTERROGATORY NO. 4: Describe in detail how you determined each price you used in the ordinary course of business of each Targeted Drug for each year during the Defined Period of Time and identify the person(s) most knowledgeable in making such determination for each Targeted Drug for each year.

ANSWER TO INTERROGATORY NO. 4:

Subject to and without waiving its objections, Roxane generally sets the prices Roxane charges wholesalers for a product (WAC) at launch at 20% below a suggested price for wholesalers to charge purchasers of products from wholesalers (Roxane's average wholesale price ("AWP")). AWP is not a price at which Roxane sells products. The existence and strength of competition, existing or anticipated, can cause the WAC to be set at a higher percentage off the AWP. Generally Roxane sets AWP for multi-source products at launch at 10% below the brand counterpart. This varies on occasion depending on the market conditions at the time of product launch.

For sole source/sole generic products, Roxane's WACs are set based upon market conditions and opportunities. For sole source/sole generic products, Roxane sets AWP based upon market conditions and opportunities.

Direct Price is the price that Roxane charges to non-contract customers who acquire products directly from Roxane. Direct Price is generally set at 10% above WAC.

Contract prices are the product of individual negotiations and analysis of existing and/or anticipated market conditions.

The persons most knowledgeable about the types of prices described above are Judy Waterer, Lesli Paoletti and Christine Marsh.

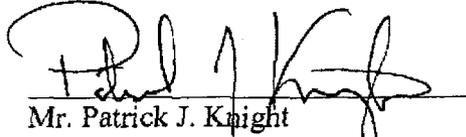
INTERROGATORY NO. 5: Have you ever included in your marketing of a Targeted Drug to any customer reference to the difference (or spread) between and AWP or WAC published by First DataBank, Redbook or Medi-span and the list or actual price (to any customer) of any Targeted Drug? If so, provide the following information for each Targeted Drug:

- (a) the drug name and NDC;
- (b) the beginning and ending dates during which such marketing occurred;
- (c) the name, address and telephone number of each customer to whom you marketed a Targeted Drug in whole or in part by making a reference to such difference(s) or spread(s); and
- (d) identify any document published or provided to a customer which referred to such difference(s) or spread(s).

ANSWER TO INTERROGATORY NO. 5:

Subject to and without waiving its objections, Roxane states that it has neither authorized nor encouraged its sales personnel to approach customers about the difference (or spread) between AWP and WAC as a marketing strategy for its drugs (including the Targeted Drugs).

As to objections,



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VERIFICATION

STATE OF CONNECTICUT        )  
  ) SS:  
COUNTY OF FAIRFIELD        )

Christine G. Marsh, being duly sworn, deposes and states that she is an authorized agent for Boehringer Ingelheim Roxane, Inc. ("Roxane") and, as such, verifies the foregoing Defendant Roxane Laboratories, Inc.'s, nka Boehringer Ingelheim Roxane, Inc., Supplemental Answers to Plaintiff's First Set of Interrogatories for and on its behalf, and is duly authorized to do so; that certain matters stated herein are not within her personal knowledge, and the facts stated therein have been assembled by authorized employees and counsel of Roxane, and deponent is informed that the facts stated therein are true.

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Christine G. Marsh

Sworn to before me and subscribed in my presence this 28th day of  
October, 2005.

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Notary Public

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Defendant Roxane Laboratories, Inc.'s, nka Boehringer Ingelheim Roxane, Inc., Supplemental Answers to Plaintiff's First Set of Interrogatories was served via \_\_\_\_\_ on October \_\_\_\_, 2005, upon the following:

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Patrick J. Knight