

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STATE OF WISCONSIN,)	
)	
Plaintiff,)	Case No.: 06-C-0582-C
)	
v.)	
)	
AMGEN INC., et. al.,)	
)	
Defendants.)	

**WATSON PHARMA, INC.'S AND WATSON PHARMACEUTICALS, INC.'S
ANSWERS AND OBJECTIONS TO PLAINTIFF'S
SECOND SET OF INTERROGATORIES TO ALL DEFENDANTS**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Western District of Wisconsin, and, to the extent applicable, Wisconsin Rule of Civil Procedure 804.08, defendants Watson Pharma, Inc. and Watson Pharmaceuticals, Inc. ("Watson"), by their attorneys, object and respond to Plaintiff's Second Set of Interrogatories as follows:

PRELIMINARY STATEMENT

1. These answers and objections are made solely for the purposes of this action. Each answer is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and to any and all other objections on any grounds that would require the exclusion of any statements contained herein if such Interrogatories were asked of, or statements contained herein were made by, a

witness present and testifying in Court, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. Watson's answers 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 Plaintiff's Second Set of Interrogatories is accurate or complete.

3. Watson's answers are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and Watson reserves the right to amend its answers and to raise any additional objections it may have in the future. These answers are made based upon the typical or usual interpretation of words contained in Plaintiff's Second Set of Interrogatories, unless a specific definition or instruction has been provided and/or agreed upon.

4. Watson's answers to Plaintiff's Second Set of Interrogatories contain information subject to the Protective Order in this matter and must be treated accordingly.

5. Watson's responses to Plaintiff's Second Set of Interrogatories are submitted without prejudice to Watson's right to produce evidence of any subsequently discovered fact. Watson accordingly reserves its right to provide further responses and answers as additional facts are ascertained.

GENERAL OBJECTIONS

Watson objects generally to Plaintiff's Second Set of Interrogatories as follows:

1. Watson objects to Plaintiff's "Definitions" to the extent Plaintiff intends to expand upon or alter Watson's obligations under the Federal Rules of Civil Procedure, the Court's Local Rules, and, to the extent applicable, the Wisconsin Rules of Procedure, in responding to the Interrogatories. Watson will comply with applicable rules of civil procedure in providing its answers to Plaintiff's Second Set of Interrogatories.

2. Watson objects to each interrogatory to the extent that it calls for the identification or production of documents or information not relevant to the issues in this action and is not reasonably calculated to lead to the discovery of admissible evidence.

3. Watson objects to Plaintiffs' definition of "Average Manufacturer Price" or "AMP" on the ground that it is vague and ambiguous. Watson further objects to this definition to the extent it purports to state an accurate or legally significant definition.

4. Watson objects to Plaintiff's definition of "Defined Period of Time" on the grounds that the phrase as defined is overbroad and burdensome, and purports to require the production of documents or information that are neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence. Watson further objects to this definition to the

extent it seeks documents or information from outside the statute of limitations applicable to the claims in this litigation, or beyond the time period relevant to this litigation.

5. Watson objects to the extent that any interrogatory seeks information that is 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.

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

7. Watson objects to each interrogatory to the extent that it calls for information that is confidential, proprietary, and/or a trade secret of a third party.

8. Watson objects to each interrogatory 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.

9. Watson expressly incorporates the above General Objections into each specific answer to the interrogatories set forth below as if set forth in full therein. The answer to an interrogatory shall not operate as a waiver of any

applicable specific or general objection to a request.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 6:

Do you contend that during the Defined Period of Time the State of Wisconsin was not prohibited by federal law from determining, and could have determined, the AMPs of the targeted drugs based on the Unit Rebate Amount for such drugs provided to the State by the federal government pursuant to the Medicaid rebate statute, 42 U.S.C. § 1396r-8?

ANSWER: Watson objects to Interrogatory No. 6 on the grounds that it is vague, ambiguous, and calls for a legal conclusion.

Notwithstanding Watson's general and specific objections, and without waiving them, Watson states that federal law does not prohibit and did not prohibit during the Defined Period of Time the State of Wisconsin from estimating or determining AMP. In fact, at least for non-innovator multiple source drugs, the State can derive and could have derived during the Defined Period of Time the AMP from the Unit Rebate Amount. The federal statute protecting the confidentiality of the AMPs reported to the federal government during the Defined Period of Time only prohibited disclosure of company-specific AMPs by employees of the federal government or a State agency, with certain exceptions. There was and is no impediment to State Medicaid authorities calculating AMPs from Unit Rebate Amounts that they were provided by the Centers for Medicare and Medicaid Services, or from comparing those AMPs with reimbursement amounts for particular drugs. Watson also is unaware of any federal or other prohibition during

the Defined Period of Time that would have prevented the State from requesting AMP or enacting a state statute that would have required its submission.

INTERROGATORY NO. 7:

If the answer to Interrogatory No. 1 [sic] is anything other than an unqualified “no,”;

- a. state all bases for such contention, and
- b. identify all documents that support such contention.

ANSWER: Watson objects to Interrogatory No. 7 on the grounds that it is vague, ambiguous, overbroad, and burdensome. Watson further objects to this interrogatory to the extent it seeks information that is publicly available to the Plaintiff. Furthermore, the Interrogatory calls for a legal conclusion.

Notwithstanding Watson’s general and specific objections, and without waiving them, Watson incorporates by reference its answer to Interrogatory No. 6 and further states that 42 U.S.C. § 1396r-8 and the state Medicaid statutes and regulations for those states that require manufacturers to submit AMP data provide support for Watson’s answer to Interrogatory No. 6.

December 14, 2006

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Certificate of Service

I, Daniel S. Elger, hereby certify that on this 14th day of December, 2006, a true and correct copy of **WATSON PHARMA, INC.'S AND WATSON PHARMACEUTICALS, INC.'S ANSWERS AND OBJECTIONS TO PLAINTIFF'S SECOND SET OF INTERROGATORIES TO ALL DEFENDANTS** was served on all counsel of record by Lexis Nexis File & Serve®.



Daniel S. Elger