UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSIO

In the Matter of HOECHST MARION ROUSSEL, INC., a corporation, CARDERM CAPITAL L.P., a limited partnership, and ANDRX CORPORATION, a corporation.	Docket No. 9293

RESPONDENT HOECHST MARION ROUSSEL, INC.'S FIRST AMENDED OBJECTIONS AND RESPONSES TO COMPLAINT COUNSEL'S FIRST REQUESTS FOR ADMISSIONS

Pursuant to Federal Trade Commission ("FTC") Rules of Practice § 3.32, respondent, Hoechst Marion Roussel, Inc. ("HMR") submits these objections and responses to Complaint Counsel's First Requests for Admissions. HMR submits this response, which amends and supplements its initial response, pursuant to a schedule for narrowing discovery disputes between the parties agreed to with Complaint Counsel and approved by the Court.

GENERAL OBJECTIONS AND STATEMENT

HMR objects to Complaint Counsel's First Requests for Admissions to the extent that they seek to impose on HMR burdens or duties inconsistent with or in addition to those required under the FTC's Rules of Practice. Additionally, HMR objects to these requests, which are 216 in number, as being harassing, cumulative, over-broad and unduly burdensome. HMR also objects to

these requests as seeking, in large part, information which is neither relevant nor likely to lead to the discovery of admissible evidence.

HMR objects to the "Definitions" provided with these requests to the extent that they are vague or ambiguous and to the extent they impose requirements beyond those imposed by the FTC's Rules of Practice.

The full text of each request is set out below, *in italics*, followed by HMR's objections and responses. Provision of a response to any request shall not constitute a waiver of any applicable objection, privilege, or other right and, unless otherwise specifically stated, HMR denies each of Complaint Counsel's requests. In addition, the general objections set forth above are incorporated into each of the following specific responses as if fully set forth therein. In those instances in which HMR responds by noting that it is unable to either admit or deny the request, Complaint Counsel should understand that such response follows HMR making reasonable inquiry and that the information it possesses is insufficient to provide a more substantive response. Finally, HMR notes that discovery is continuing and supplementation of these responses may be made.

SPECIFIC OBJECTIONS AND RESPONSES

Request No. 1: *Admit that Hoechst markets and sells pharmaceutical products, including Cardizem CD, in the United States.*

Answer: Admitted.

Request No. 2: *Admit that Hoechst enters into agreements with franchised warehousing customers, such as Bergen Brunswig, to distribute pharmaceutical products (including Cardizem CD) in the United States.*

Answer: Admitted.

Request No. 3: *Admit that pursuant to Hoechst's agreements with franchised warehousing customers, Hoechst ships or distributes pharmaceutical products, including Cardizem CD, to certain warehousing locations in the United States.*

Answer: Admitted.

Request No. 4: *Admit that some of the warehouses to which Hoechst ships or distributes pharmaceutical products, including Cardizem CD, are located in states other than the state where the products are manufactured.*

Answer: Admitted.

Request No. 5: *Admit that Hoechst's pharmaceutical products, including Cardizem CD, are sold to consumers in states other than the state in which the products are manufactured.*

Answer: Admitted.

Request No. 6: *Admit that the HMR/Andrx Stipulation and Agreement occurred in, or affected, interstate commerce.*

Answer: HMR objects to this request as calling for a legal conclusion.

Request No. 7: *Admit that a pharmaceutical manufacturer must file an ANDA with the FDA to receive FDA approval to market a generic product that is AB-rated to a brand-name product listed in the Orange Book.*

Answer: Denied.

Request No. 8: *Admit that the FDA takes, on average, 12 to 18 months to review and approve an ANDA.*

Answer: Denied.

Request No. 9: *Admit that a First Filer is eligible for the 180-day Exclusivity Period.*

Answer: Admitted.

Request No. 10: *Admit that a First Filer can relinquish its eligibility to the 180-day Exclusivity Period.*

Answer: Admitted.

Request No. 11: *Admit that the FDA is prohibited from approving another generic version of the branded product until either (1) the First Filer's 180-day Exclusivity Period has elapsed, or (2) the First Filer relinquishes its eligibility to the 180-day Exclusivity Period.*

Answer: HMR objects to this request because it is vague and ambiguous as presently phrased. Specifically, the use of the undefined term "approval" renders the request confusing and incapable of precise answer. Without in any manner waiving or limiting the foregoing objection, HMR states that to the extent the request inquires about a preliminary approval, the request is denied; to the extent the request speaks to final approval for marketing, the request is admitted.

Request No. 12: *Admit that if a First Filer relinquishes its eligibility to the 180-day Exclusivity Period, the FDA may grant final approval to another generic version of the branded product.*

Answer: Admitted.

Request No. 13: *Admit that Andrx was the First Filer for a generic version of Cardizem CD.*

Answer: Admitted.

Request No. 14: *Admit that Andrx, as the First Filer for a generic version of Cardizem CD, was eligible for the 180-day Exclusivity Period.*

Answer: Admitted.

Request No. 15: *Admit that in 1998, gross U.S. sales of Cardizem CD exceeded $700 million.*

Answer: Admitted.

Request No. 16: *Admit that in 1998, net U.S. sales of Cardizem CD exceeded $700 million.*

Answer: Admitted.

Request No. 17: *Admit that in 1998, gross sales of Cardizem CD accounted for roughly 40% of Hoechst's total gross U.S. sales of pharmaceutical products.*

Answer: Admitted.

Request No. 18: *Admit that in 1998, net sales of Cardizem CD accounted for roughly 40% of Hoechst's total net U.S. sales of pharmaceutical products.*

Answer: Admitted.

Request No. 19: *Admit that, in 1997, Cardizem CD generated greater gross U.S. sales for Hoechst than did any other pharmaceutical product.*

Answer: Admitted.

Request No. 20: *Admit that, in 1998, Cardizem CD generated greater gross U.S. sales for Hoechst than did any other pharmaceutical product.*

Answer: Admitted.

Request No. 21: *Admit that, in 1999, Hoechst's gross U.S. sales from Allegra products in the United States exceeded Hoechst's gross U.S. sales from Cardizem products.*

Answer: Admitted.

Request No. 22: *Admit that Hoechst projected that generic Cardizem CD would capture nearly 70% of Cardizem CD sales in the United States 2 years after its launch.*

Answer: HMR can neither admit nor deny this request.

Request No. 23: *Admit that in June 1999, Hoechst's gross U.S. sales of Cardizem CD totaled approximately $71 million.*

Answer: Admitted.

Request No. 24: *Admit that in September 1999, Hoechst's gross U.S. sales of Cardizem CD totaled approximately $53 million.*

Answer: Admitted.

Request No. 25: *Admit that in December 1999, Hoechst's gross U.S. sales of Cardizem CD totaled approximately $42 million.*

Answer: Admitted.

Request No. 26: *Admit that Hoechst's gross monthly U.S. sales of Cardizem CD in the [sic] September 1999 were approximately 25% less than Hoechst's monthly sales of Cardizem CD in June 1999.*

Answer: Admitted.

Request No. 27: *Admit that Hoechst's gross monthly U.S. sales of Cardizem CD in December 1999 were approximately 40% less than Hoechst's gross monthly U.S. sales of Cardizem CD in June 1999.*

Answer: Admitted.

Request No. 28: *Admit that on December 19, 1995, Andrx submitted to the FDA a certification stating that Andrx's Original Formulation did not infringe the patents listed in the Orange Book for Cardizem CD.*

Answer: HMR can neither admit nor deny this request.

Request No. 29: *Admit that Hoechst received notification of Andrx's December 19, 1995 patent certification to the FDA stating that Andrx's Original Formulation did not infringe the patents listed in the Orange Book for Cardizem CD.*

Answer: HMR admits it received notification of Andrx's patent certification.

HMR can neither admit nor deny the date of that certification.

Request No. 30: *Admit that on January 17, 1996, Andrx submitted to the FDA an amended certification stating that Andrx's Original Formulation did not infringe the patents listed in the Orange Book for Cardizem CD, including the '584 patent.*

Answer: Admitted.

Request No. 31: *Admit that Hoechst received notification of Andrx's January 17, 1996 amended patent certification to the FDA stating that Original Formulation did not infringe the patents listed in the Orange Book for Cardizem CD, including the '584 patent.*

Answer: Admitted.

Request No. 32: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx took the position in papers filed with the District Court, including Andrx's Answer (dated February 20, 1996) and Andrx's Motion for Summary Judgment on the Issue of Non-Infringement and Memorandum in Support thereof (dated December 12, 1996) that Andrx's Original Formulation did not infringe the patents listed in the Orange Book for Cardizem CD, including the '584 patent.*

Answer: HMR admits that this request accurately characterizes the litigation position taken by Andrx in the HMR/Andrx patent infringement litigation.

Request No. 33: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx never took the position in papers filed with the District Court that Andrx's Original Formulation infringed the patents listed in the Orange Book for Cardizem CD, including the '584 patent.*

Answer: HMR objects to this request because it is argumentative in form. Complaint Counsel's attempt to create evidence by having HMR "admit" that a litigation opponent elected not to take a certain legal position which would be contrary to that opponent's interest is wholly improper.

Request No. 34: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx took the position in its counterclaims filed with the District Court on February 20, 1996 that Hoechst's filing of the HMR/Andrx Patent Infringement Litigation would result in the delay in the FDA's approval of Andrx's Original Formulation.*

Answer: HMR admits that this request accurately characterizes the litigation position taken by Andrx in the HMR/Andrx patent infringement litigation.

Request No. 35: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx took the position in its counterclaims filed with the District Court on February 20, 1996 that Hoechst's filing of the HMR/Andrx Patent Infringement Litigation would result in the delay of the introduction of Andrx's Original Formulation.*

Answer: HMR admits that this request accurately characterizes the litigation position taken by Andrx in the HMR/Andrx patent infringement litigation.

Request No. 36: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx took the position in its counterclaims filed with the District Court on February 20, 1996 that*

Hoechst's filing of the HMR/Andrx Patent Infringement Litigation would cause Andrx to miss or be precluded from up to 30 months of sales of Andrx's Original Formulation.

Answer: HMR admits that this request accurately characterizes the litigation position taken by Andrx in the HMR/Andrx patent infringement litigation.

Request No. 37: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx never took the position that Andrx's Original Formulation infringed the '584 Patent.*

Answer: HMR objects to this request because it is argumentative in form. Complaint Counsel's attempt to create evidence by having HMR "admit" that a litigation opponent elected not to take a certain legal position which would be contrary to that opponent's interest is wholly improper.

Request No. 38: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx never took the position that any of its generic versions of Cardizem CD infringed the '584 Patent.*

Answer: HMR objects to this request because it is argumentative in form. Complaint Counsel's attempt to create evidence by having HMR "admit" that a litigation opponent elected not to take a certain legal position which would be contrary to that opponent's interest is wholly improper.

Request No. 39: *Admit that the '584 Patent is a continuation of U.S. Patent No. 5,439,689 issued August 8, 1995.*

Answer: Admitted.

Request No. 40: *Admit that U.S. Patent No. 5,439,689 issued August 8, 1995, is a continuation of U.S. Patent No. 5,286,497 issued February 15, 1994.*

Answer: Admitted.

Request No. 41: *Admit that the specification of the '584 Patent is substantially identical to the specification of U.S. Patent No. 5,439,689.*

Answer: Admitted.

Request No. 42: *Admit that the specification of the '584 Patent is substantially identical to the specification of U.S. Patent No. 5,286,497.*

Answer: Admitted.

Request No. 43: *Admit that the specification of U.S. Patent No. 5,439,689 satisfies the requirements of 35 U.S.C. § 112 with regard to the claims of the '584 Patent.*

Answer: Admitted.

Request No. 44: *Admit that the specification of U.S. Patent No. 5,286,497 satisfies the requirements of 35 U.S.C. § 112 with regard to the claims of the '584 Patent.*

Answer: Admitted.

Request No. 45: *Admit that the specification of U.S. Patent No. 5,439,689 teaches one of ordinary skill in the art of the invention claimed in the '584 Patent how to practice the claimed invention.*

Answer: Admitted.

Request No. 46: *Admit that the specification of U.S. Patent No. 5,286,497 teaches one of ordinary skill in the art of the invention claimed in the '584 Patent how to practice the claimed invention.*

Answer: Admitted.

Request No. 47: *Admit that FDA regulations require that any drug sold pursuant to an approved ANDA satisfy the specification of the ANDA.*

Answer: HMR objects to this request because it is vague. HMR does not understand what Complaint Counsel intends in its use of the undefined phrase "satisfy the specification of the ANDA."

Request No. 48: *Admit that the District Court made no finding that Andrx's Original Formulation infringed the '584 patent.*

Answer: HMR objects to this request because it is argumentative. As Complaint Counsel is aware, it was the failure of the District Court to make any findings on any of the substantive issues raised by the parties that led Andrx and HMR to negotiate the Stipulation and

Agreement in 1997. Complaint Counsel's attempt to create evidence by having HMR "admit" that a it did not receive a favorable finding on validity when the District Court, in fact, never ruled on the issue is wholly improper.

Request No. 49: *Admit that the District Court made no finding that Andrx's Original Formulation was substantially likely to infringe the '584 patent.*

Answer: HMR objects to this request because it is argumentative. As Complaint Counsel is aware, it was the failure of the District Court to make any findings on any of the substantive issues raised by the parties that led Andrx and HMR to negotiate the Stipulation and Agreement in 1997. Complaint Counsel's attempt to create evidence by having HMR "admit" that a it did not receive a ruling that the Andrx product infringed when the District Court, in fact, never ruled on the issue is wholly improper.

Request No. 50: *Admit that no federal district court has found that Andrx's Original Formulation infringed the '584 patent.*

Answer: HMR objects to this request because it is argumentative. As Complaint Counsel is aware, it was the failure of the District Court to make any findings on any of the substantive issues raised by the parties that led Andrx and HMR to negotiate the Stipulation and Agreement in 1997. Complaint Counsel's attempt to create evidence by having HMR "admit" that a it did not receive a ruling that the Andrx product infringed when the District Court, in fact, never ruled on the issue is wholly improper. Further answering, HMR is not aware of any other federal court which has rendered a decision on the merits deciding whether the formulation featured in the request violated the '584 patent.

Request No. 51: *Admit that no federal district court has found that Andrx's Original Formulation was substantially likely to infringe the '584 patent.*

Answer: HMR objects to this request because it is argumentative. As Complaint Counsel is aware, it was the failure of the District Court to make any findings on any of the substantive issues raised by the parties that led Andrx and HMR to negotiate the Stipulation and Agreement in 1997. Complaint Counsel's attempt to create evidence by having HMR "admit" that a it did not receive a ruling that the Andrx product infringed when the District Court, in fact, never ruled on the issue is wholly improper. Further answering, HMR is not aware of any other federal court which has rendered a decision on the merits deciding whether the formulation featured in the request violated the '584 patent.

Request No. 52: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx took the position in its counterclaims filed with the District Court on February 20, 1996, that diltiazem is the relevant product market for purposes of the antitrust laws of the United States.*

Answer: HMR admits that this request accurately characterizes the litigation position taken by Andrx in the HMR/Andrx patent infringement litigation.

Request No. 53: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx took the position in its counterclaims filed with the District Court on February 20, 1996, that the sustained release (once-a day) form of diltiazem is a relevant product sub-market for purposes of the antitrust laws of the United States.*

Answer: HMR admits that this request accurately characterizes the litigation position taken by Andrx in the HMR/Andrx patent infringement litigation.

Request No. 54: *Admit that in the HMR/Andrx Patent Infringement Litigation, Andrx took the position in its counterclaims filed with the District Court on February 20, 1996, that the United States is the relevant geographic market with respect to the relevant product market and relevant product sub-market for purposes of the antitrust laws of the United States.*

Answer: HMR admits that this request accurately characterizes the litigation position taken by Andrx in the HMR/Andrx patent infringement litigation.

Request No. 55: *Admit that in July 1997, representatives of Hoechst and Andrx met to discuss a possible agreement relating to the HMR/Andrx Patent Infringement Litigation.*

Answer: Denied.

Request No. 56: *Admit that the first draft of the HMR/Andrx Stipulation and Agreement was prepared in July 1997.*

Answer: HMR can neither admit nor deny this request.

Request No. 57: *Admit that the HMR/Andrx Stipulation and Agreement was executed on September 24, 1997.*

Answer: Admitted.

Request No. 58: *Admit that the HMR/Andrx Stipulation and Agreement was negotiated over the course of nearly two months.*

Answer: Denied.

Request No. 59: *Admit that during the negotiation of the HMR/Andrx Stipulation and Agreement, Hoechst and Andrx exchanged at least 40 drafts of the HMR/Andrx Stipulation and Agreement.*

Answer: HMR can neither admit nor deny this request.

Request No. 60: *Admit that the language "other bioequivalent or generic versions of Cardizem CD" first appears in paragraph 2 of the HMR/Andrx Stipulation and Agreement in a August 15, 1997 draft, Bates stamped 1584-1600.*

Answer: HMR can neither admit nor deny this request.

Request No. 61: *Admit that Hoechst was responsible for inserting the language "other bioequivalent or generic versions of Cardizem CD" into paragraph 2 of the August 15, 1997 draft of the HMR/Andrx Stipulation and Agreement, Bates stamped 1584-1600.*

Answer: HMR can neither admit nor deny this request.

Request No. 62: *Admit that the language "other bioequivalent or generic versions of Cardizem CD" is crossed out in paragraph 2 of the August 26, 1997 draft of the HMR/Andrx Stipulation and Agreement, Bates stamped 1512-23.*

Answer: Admitted.

Request No. 63: *Admit that Andrx was responsible for crossing out the language "other bioequivalent or generic versions of Cardizem CD" from paragraph 2 of the August 26, 1997 draft of the HMR/Andrx Stipulation and Agreement, Bates stamped 1512-23.*

Answer: HMR can neither admit nor deny this request.

Request No. 64: *Admit that the language "other bioequivalent or generic versions of Cardizem CD" appears in paragraph 2 of the September 3, 1997 draft of the HMR/Andrx Stipulation and Agreement, Bates stamped 1487-98.*

Answer: Admitted.

Request No. 65: *Admit that Hoechst was responsible for inserting the language "other bioequivalent or generic versions of Cardizem CD" into paragraph 2 of the September 3, 1997 draft of the HMR/Andrx Stipulation and Agreement, Bates stamped 1487-98.*

Answer: HMR can neither admit nor deny this request.

Request No. 66: *Admit that Andrx received FDA tentative approval for Andrx's Original Formulation on September 17, 1997.*

Answer: Denied.

Request No. 67: *Admit that the HMR/Andrx Stipulation and Agreement was entered into eight days after Andrx received FDA tentative approval for Andrx's Original Formulation.*

Answer: Denied.

Request No. 68: *Admit that Andrx could not receive final FDA approval to market Andrx's Original Formulation until after the termination of the 30-month Hatch-Waxman statutory injunction.*

Answer: Denied.

Request No. 69: *Admit that the 30-month Hatch-Waxman statutory injunction for Andrx's Original Formulation expired in July 1998.*

Answer: Admitted.

Request No. 70: *Admit that Hoechst and Andrx entered into the HMR/Andrx Stipulation and Agreement more than 8 months before Andrx received final FDA approval to market Andrx's Original Formulation.*

Answer: Admitted.

Request No. 71: *Admit that under the HMR/Andrx Stipulation and Agreement, Andrx agreed not to commence the sale of any "bioequivalent or generic version of Cardizem CD in the United States directly or indirectly" until the earlier of: (1) the date that Final Judgment was entered in the Patent Infringement Litigation; (2) the date that Andrx obtained a license from HMR pursuant to paragraphs 5, 6, or 7 of the HMR/Andrx Stipulation and Agreement; or (3) the date that Andrx received notice that HMR had decided to market or license a third party to market a generic version of Cardizem CD.*

Answer: Admitted.

Request No. 72: *Admit that, on July 9, 1998, Andrx received final FDA approval for Andrx's Original Formulation.*

Answer: Admitted.

Request No. 73: *Admit that, as of July 9, 1998, FDA law and regulations permitted Andrx to begin the commercial sale of Andrx's Original Formulation.*

Answer: Admitted in part and denied in part. HMR admits that the FDA issued final approval for Andrx's Original formulation on July 8, 1998. HMR denies the request because the FDA does not have the authority to authorize the sale of an infringing good.

Request No. 74: *Admit that Andrx did not begin the commercial sale of Andrx's Original Formulation on July 9, 1998.*

Answer: Admitted.

Request No. 75: *Admit that, as of July 9, 1998, Hoechst became obligated to make payments of $10 million per quarter to Andrx under the terms of the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 76: *Admit that Andrx did not begin the commercial sale of any generic version of Cardizem CD until after Hoechst and Andrx terminated the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 77: *Admit that under Paragraph 8.B.i. of the HMR/Andrx Stipulation and Agreement, if Andrx breached the terms of the HMR/Andrx Stipulation and Agreement: (1) the HMR/Andrx Stipulation and Agreement would terminate; (2) Andrx would not receive any further $10 million payments from Hoechst; and (3) Andrx would be required to repay to Hoechst all payments made to Andrx by Hoechst under the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 78: *Admit that in the event Andrx commenced the sale of any "bioequivalent or generic version of Cardizem CD" in the United States while the HMR/Andrx Stipulation and Agreement was in effect: (1) the HMR/Andrx Stipulation and Agreement would terminate; (2) Andrx would not receive any further $10 million payments from Hoechst; and (3) Andrx would be required to repay to Hoechst all payments made to Andrx by Hoechst under the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 79: *Admit that under the HMR/Andrx Stipulation and Agreement, the phrase "bioequivalent or generic version of Cardizem CD" applied to products that infringed the '584 Patent.*

Answer: Admitted.

Request No. 80: *Admit that under the HMR/Andrx Stipulation and Agreement, the phrase "bioequivalent or generic version of Cardizem CD" applied to products that did not infringe the '584 Patent.*

Answer: HMR objects to this request because it is vague as to time and, as phrased, appears to call for speculation.

Subject to and without waiving any of the foregoing objections, HMR states that at the time that the Stipulation and Agreement was executed, HMR was not aware of any "bioequivalent or generic version[s] of Cardizem CD" which did not infringe its patents.

Request No. 81: *Admit that under the HMR/Andrx Stipulation and Agreement, the phrase "bioequivalent or generic version of Cardizem CD" applied to Andrx's Reformulated Product.*

Answer: Denied.

Request No. 82: *Admit that under the HMR/Andrx Stipulation and Agreement, Andrx agreed not to relinquish or otherwise compromise any rights accruing under its ANDA.*

Answer: Admitted.

Request No. 83: *Admit that under the HMR/Andrx Stipulation and Agreement, the phrase "any rights accruing under [Andrx's] ANDA" included any rights Andrx had to a 180-day Exclusivity Period.*

Answer: Admitted.

Request No. 84: *Admit that in the event Andrx relinquished or otherwise compromised any rights accruing under ANDA 74-752 while the HMR/Andrx Stipulation and Agreement was in effect: (1) the HMR/Andrx Stipulation and Agreement would terminate; (2) Andrx would not receive any further $10 million payments from Hoechst; and (3) Andrx would be required to repay to Hoechst all payments made to Andrx by Hoechst under the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 85: *Admit that in the event Andrx relinquished or otherwise compromised its 180-day Exclusivity Period while the HMR/Andrx Stipulation and Agreement was in effect: (1) the HMR/Andrx Stipulation and Agreement would terminate; (2) Andrx would not receive any further $10 million payments from Hoechst; and (3) Andrx would be required to repay to Hoechst all payments made to Andrx by Hoechst under the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 86: *Admit that under the HMR/Andrx Stipulation and Agreement, Hoechst granted Andrx an option to acquire a license to all intellectual property owned by Hoechst that Andrx would need to sell, market, and distribute a generic formulation of Cardizem CD in the United States ("Hoechst's Intellectual Property").*

Answer: Admitted.

Request No. 87: *Admit that under the HMR/Andrx Stipulation and Agreement, Andrx could not exercise its option to acquire a license to Hoechst's Intellectual Property until after either: (1) eighteen months after final FDA approval of Andrx's product – January 9, 2000; (2) 30 days after Hoechst provides notice to Andrx that it intended to license its intellectual property to another generic manufacturer or to market its version of generic Cardizem CD; or (3) if Andrx lost the HMR/Andrx Patent Infringement Litigation.*

Answer: Admitted.

Request No. 88: *Admit that under the HMR/Andrx Stipulation and Agreement, in the event that Andrx lost the HMR/Andrx Patent Infringement Litigation, Andrx could choose to exercise the option to acquire a license to Hoechst's Intellectual Property.*

Answer: Admitted.

Request No. 89: *Admit that under the HMR/Andrx Stipulation and Agreement, in the event that Andrx lost the HMR/Andrx Patent Infringement Suit, Andrx could choose not to exercise the option to acquire a license to Hoechst's Intellectual Property.*

Answer: Admitted.

Request No. 90: *Admit that under the HMR/Andrx Stipulation and Agreement, in the event that Andrx lost the HMR/Andrx Patent Infringement Suit and Andrx chose not to exercise the option to acquire a license to Hoechst's Intellectual Property, Andrx would keep all of the payments made to it by Hoechst.*

Answer: Admitted.

Request No. 91: *Admit that under Paragraph 4 of the HMR/Andrx Stipulation and Agreement, Hoechst agreed to pay Andrx $10 million a quarter for the period from Andrx's receipt of final FDA approval for Andrx's Original Formulation through the duration of the HMR/Andrx Stipulation and Agreement.*

Answer: HMR objects to this request because it is vague as presently phrased. Specifically, the use of the defined term "Andrx Original Formulation" renders the question incapable of precise response. Without in any manner waiving or limiting the foregoing objections, HMR states that under the Stipulation and Agreement, HMR agreed to make interim lost profits payments of $10 million per quarter following Andrx's receipt of final FDA approval during the pendency of the Florida patent litigation, for a maximum period for six quarters.

Request No. 92: *Admit that the quarterly payments from Hoechst to Andrx pursuant to Paragraph 4 of the HMR/Andrx Stipulation and Agreement began on the date Andrx received approval from the FDA to market Andrx's Original Formulation.*

Answer: HMR objects to this request because it is vague as presently phrased. Specifically, the use of the defined term "Andrx Original Formulation" renders the question

incapable of precise response. Without in any manner waiving or limiting the foregoing objections, HMR states that under the Stipulation and Agreement, HMR agreed to make interim lost profits payments of $10 million per quarter following Andrx's receipt of final FDA approval during the pendency of the Florida patent litigation, for a maximum period for six quarters.

Request No. 93: *Admit that Hoechst's payments to Andrx of $10 million a quarter were to be made regardless of the outcome of the HMR/Andrx Patent Infringement Litigation.*

Answer: Denied. The interim lost profits payments were payable only while the Florida patent litigation was pending. Accordingly, the payments were entirely dependent on the outcome of the litigation.

Request No. 94: *Admit that under the HMR/Andrx Stipulation and Agreement, Hoechst made a $10 million payment to Andrx on July 9, 1998.*

Answer: Denied.

Request No. 95: *Admit that under the HMR/Andrx Stipulation and Agreement, Hoechst made a $10 million payment to Andrx on October 1, 1998.*

Answer: Denied.

Request No. 96: *Admit that under the HMR/Andrx Stipulation and Agreement, Hoechst made a $10 million payment to Andrx on January 4, 1999.*

Answer: Admitted.

Request No. 97: *Admit that under the HMR/Andrx Stipulation and Agreement, Hoechst made a $10 million payment to Andrx on April 1, 1999.*

Answer: Admitted.

Request No. 98: *Admit that under the HMR/Andrx Stipulation and Agreement, in the event that Andrx lost the HMR/Andrx Patent Infringement Litigation, Andrx did not have to refund any of the $10 million a quarter paid to it by Hoechst.*

Answer: HMR can neither admit nor deny this request as it appears to be incomplete. A complete response which is not misleading cannot be made to this request without additional facts. For example, if Andrx wished to market a generic version of Cardizem CD following a loss in the Patent Infringement Litigation (without regard to appeals thereof) a license would need to be taken. Under the licensing provisions of the Stipulation and Agreement, the interim payments previously paid to Andrx (if any) were refunded through an enhanced license fee and royalty arrangement. There are, however, other factual scenarios that would result in other outcomes. Accordingly, HMR cannot provide an appropriate response without being provided all the facts necessary to do so.

Request No. 99: *Admit that under the HMR/Andrx Stipulation and Agreement, in the event that Andrx won the patent litigation, Hoechst would pay Andrx an additional $60 million a year for the period from Andrx's receipt of final FDA approval for its Original Formulation through the duration of the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 100: *Admit that Hoechst did not file with the District Court a motion for a preliminary injunction in the HMR/Andrx Patent Infringement Action.*

Answer: Admitted.

Request No. 101: *Admit that the HMR/Andrx Stipulation and Agreement was not presented to the District Court for approval.*

Answer: Admitted.

Request No. 102: *Admit that the District Court did not approve the HMR/Andrx Stipulation and Agreement.*

Answer: HMR objects to this request because it is argumentative. As Complaint Counsel is aware, the Stipulation and Agreement was not presented to the District Court.

Complaint Counsel's attempt to create evidence by having HMR "admit" that a document never presented to a court was "not approved" is wholly improper.

Request No. 103: *Admit that the HMR/Andrx Stipulation and Agreement was not presented to any federal district court for approval.*

Answer: Admitted.

Request No. 104: *Admit that the HMR/Andrx Stipulation and Agreement was not approved by any federal district court.*

Answer: Admitted.

Request No. 105: *Admit that under the HMR/Andrx Stipulation and Agreement, Hoechst paid to Andrx approximately $89.83 million.*

Answer: Admitted.

Request No. 106: *Admit that Hoechst disclosed publicly in September 1997 that it had entered into the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 107: *Admit that Hoechst did not disclose publicly in September 1997 the terms of the HMR/Andrx Stipulation and Agreement.*

Answer: Denied.

Request No. 108: *Admit that Hoechst did not disclose publicly in September 1997 the actual text of the HMR/Andrx Stipulation and Agreement.*

Answer: Admitted.

Request No. 109: *Admit that Hoechst has never disclosed publicly the terms of the HMR/Andrx Stipulation and Agreement.*

Answer: Denied.

Request No. 110: *Admit that Hoechst has never disclosed publicly the actual text of the HMR/Andrx Stipulation and Agreement.*

Answer: HMR admits that, prior to the institution of litigation, the only parties in the possession of the complete text of the Stipulation and Agreement were HMR, Andrx, Carderm and the FTC.

Request No. 111: *Admit that during the time between the execution of the HMR/Andrx Stipulation and Agreement in September 1997, and the termination of the agreement in June 1999, Hoechst had net U.S. sales of roughly $1.3 billion for Cardizem CD.*

Answer: Admitted.

Request No. 112: *Admit that at the time Hoechst entered into the HMR/Andrx Stipulation and Agreement, Hoechst believed that Andrx would receive FDA approval for Andrx's Original Formulation upon expiration of the 30 month Hatch-Waxman waiting period in July 1998.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges. HMR further objects to the request because it is vague and ambiguous. Specifically, the use of the term "FDA approval" without any defined qualifier in this context renders the request incapable of precise answer.

Request No. 113: *Admit that at the time Hoechst entered into the HMR/Andrx Stipulation and Agreement, Hoechst believed that Faulding would receive tentative FDA approval of ANDA 75-984 prior to Final Judgement in the HMR/Andrx Patent Infringement Litigation.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges.

Request No. 114: *Admit that at the time Hoechst entered into the HMR/Andrx Stipulation and Agreement, Hoechst was uncertain as to whether or not Faulding would receive tentative FDA approval of ANDA 75-984 prior to Final Judgement in the HMR/Andrx Patent Infringement Litigation.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges.

Request No. 115: *Admit that at the time Hoechst entered into the HMR/Andrx Stipulation and Agreement, Hoechst believed that Biovail would receive tentative FDA approval to market a generic version of Cardizem CD prior to Final Judgement in the HMR/Andrx Patent Infringement Litigation.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges.

Request No. 116: *Admit that at the time Hoechst entered into the HMR/Andrx Stipulation and Agreement, Hoechst was uncertain as to whether or not Biovail would receive tentative FDA approval to market a generic version of Cardizem CD prior to Final Judgment in the HMR/Andrx Patent Infringement Litigation.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges.

Request No. 117: *Admit that on June 8, 1999, Hoechst and Andrx entered into the HMR/Andrx Stipulation and Order.*

Answer: Admitted.

Request No. 118: *Admit that the HMR/Andrx Stipulation and Order terminated the HMR/Andrx Stipulation and Agreement.*

Answer: Denied.

Request No. 119: *Admit that under the HMR/Andrx Stipulation and Order, Hoechst agreed that it would not institute or prosecute any action alleging patent infringement with respect to Andrx's Reformulated Product, so long as the Reformulated Product's SR2 beads release on average not less than 68% of the total amount of diltiazem after 18 hours when tested in the U.S.*

Pharmacopeia XXII Type 2 apparatus using 900 ml of 0.1 HCL at 37 degrees C and a paddle speed of 100 rpm.

Answer: Admitted.

Request No. 120: *Admit that Hoechst has not initiated or prosecuted any action alleging patent infringement with respect to Andrx's Reformulated Product.*

Answer: Admitted.

Request No. 121: *Admit that Hoechst does not have a good faith basis for initiating or prosecuting a patent infringement action with respect to Andrx's Reformulated Product so long as Andrx's Reformulated Product's SR2 beads release on average not less than 68% of the total amount of diltiazem after 18 hours when tested in the U.S. Pharmacopeia XXII Type 2 apparatus using 900 ml of 0.1 HCL at 37 degrees C and a paddle speed of 100 rpm.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges.

Request No. 122: *Admit that in May 1999 Federal Trade Commission (FTC) staff discussed with Hoechst an outline for a proposed consent order relating to the FTC's investigation of Hoechst and Andrx, FTC File No. 981-0368.*

Answer: HMR objects to this request as presently phrased because it appears to seek discovery of communications protected from disclosure. Specifically, the request inquires into confidential communications with FTC concerning the possible settlement and/or compromise of disputes between the FTC and HMR.

Request No. 123: *Admit that Hoechst and Andrx reached an agreement in principle on the HMR/Andrx Stipulation and Order less than 3 weeks after the FTC staff discussed with Hoechst an outline for a proposed consent order relating to the FTC's investigation of Hoechst and Andrx, FTC File No. 981-0368.*

Answer: HMR objects to this request as presently phrased because it appears to seek discovery of communications protected from disclosure. Specifically, the request inquires

into confidential communications with FTC concerning the possible settlement and/or compromise of disputes between the FTC and HMR. Without in any manner waiving or limiting the foregoing objections, HMR denies the request.

Request No. 124: *Admit that the terms of the HMR/Andrx Stipulation and Order entered into by Hoechst and Andrx reflected at least some of the same terms proposed by the FTC's staff when the FTC staff discussed a proposed consent order relating to the FTC's investigation of Hoechst and Andrx, FTC File No. 981-0368.*

Answer: HMR objects to this request as presently phrased because it appears to seek discovery of communications protected from disclosure. Specifically, the request inquires into confidential communications with FTC concerning the possible settlement and/or compromise of disputes between the FTC and HMR. HMR also objects to this request because it is vague and ambiguous in its use of the phrase "reflected at least some of the same terms" as applied to the Stipulation and Order.

Request No. 125: *Admit that if Andrx and Hoechst had not entered into the HMR/Andrx Stipulation and Order, under the terms of the HMR/Andrx Stipulation and Agreement, Andrx would not have been permitted to commence the commercial sale of Andrx's Reformulated Product.*

Answer: Denied.

Request No. 126: *Admit that if Andrx and Hoechst had not entered into the HMR/Andrx Stipulation and Order, under the terms of HMR/Andrx Stipulation and Agreement, Andrx would have had to repay Hoechst all amounts previously paid if it had commenced the commercial sale of Andrx's Reformulated Product.*

Answer: HMR can neither admit nor deny this request as it appears to be incomplete. HMR understands this hypothetical request to ask whether Andrx's sale of its non-infringing reformulated product would have terminated the Stipulation and Agreement if there had been no dismissal of the Florida patent lawsuit and no Stipulation and Order based on the happening of that event. Under the terms of the Stipulation and Agreement, the commercial sale of either the

Andrx product or another generic or bioequivalent version of Cardizem CD would have terminated the Stipulation and Agreement, and required Andrx to refund any previously paid lost profits payments since such profits would not be "lost" as Andrx would be earning profits from the sale of generic Cardizem CD.

Request No. 127: *Admit that Hoechst's outside legal counsel James M. Spears believed that Hoechst and Andrx should enter into the HMR/Andrx Stipulation and Order because he understood that the FTC wanted the HMR/Andrx Stipulation and Agreement "ended in no uncertain terms."*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges.

Request No. 128: *Admit that in April 1995, Hoechst entered into a General Release and Covenant Not to Sue Biovail with respect to any claim of patent infringement relating to formulations for a once daily medicine containing diltiazem.*

Answer: Admitted in part and denied in part. HMR admits that in April 1995, Hoechst entered into a General Release and Covenant Not to Sue Biovail. The remainder of the request is denied.

Request No. 129: *Admit that Biovail had asserted to Hoechst that the General Release and Covenant Not to Sue precluded Hoechst from suing Biovail for patent infringement concerning Biovail's generic Cardizem CD product.*

Answer: HMR admits that this request accurately characterizes the position taken by Biovail.

Request No. 130: *Admit that if Hoechst sued Biovail for patent infringement of the '584 patent, there was a risk that Hoechst would breach the General Release and Covenant Not to Sue Biovail with respect to any claim of patent infringement relating to formulations for a once daily medicine containing diltiazem.*

Answer: HMR can neither admit nor deny this request as it appears to be incomplete. The General Release and Covenant Not to Sue referred to in this request was not unlimited. HMR cannot respond to this request more complete without facts concerning the nature of particular "medicine containing diltiazem" to which counsel refer.

Request No. 131: *Admit that Biovail filed ANDA 75-1169 for a generic version of Cardizem CD on April 21, 1997.*

Answer: Admitted.

Request No. 132: *Admit that as part of ANDA 75-1169, Biovail submitted to the FDA a Paragraph IV Certification stating that its generic Cardizem CD product did not infringe the patents listed in the Orange Book for Cardizem CD.*

Answer: Admitted.

Request No. 133: *Admit that Hoechst received notification of Biovail's June 18, 1997 Paragraph IV Certification to the FDA stating that Biovail's product that is the subject of ANDA 75-1169 did not infringe the patents listed in the Orange Book for Cardizem CD.*

Answer: Admitted.

Request No. 134: *Admit that Hoechst did not sue Biovail for patent infringement concerning the generic Cardizem CD product that was the subject of Biovail's ANDA 75-1169.*

Answer: Admitted.

Request No. 135: *Admit that Hoechst threatened to sue Biovail for patent infringement with respect to Biovail's ANDA 75-1169.*

Answer: Denied.

Request No. 136: *Admit that Hoechst has a good faith basis for initiating or prosecuting a patent infringement action with respect to Biovail's ANDA 75-116.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges. HMR also objects to the request because it calls for speculation.

Subject to and without waiving any of the foregoing objections, HMR states that Biovail has failed to provide sufficient information which would have allowed HMR to make a good faith determination as to whether Biovail's generic product infringed HMR's patent. HMR has elected to defer its decision on whether to sue Biovail until such time as it had an opportunity to examine Biovail's product and make a reasoned and good-faith assessment of its claim.

Request No. 137: *Admit that Hoechst does not have a good faith basis for initiating or prosecuting a patent infringement action with respect to Biovail's ANDA 75-116.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges. HMR also objects to the request because it calls for speculation.

Subject to and without waiving any of the foregoing objections, HMR states that Biovail has failed to provide sufficient information which would have allowed HMR to make a good faith determination as to whether Biovail's generic product infringed HMR's patent. HMR has elected to defer its decision on whether to sue Biovail until such time as it had an opportunity to examine Biovail's product and make a reasoned and good-faith assessment of its claim.

Request No. 138: *Admit that Faulding filed its application for a generic version of Cardizem CD, ANDA 75-984, on October 11, 1996.*

Answer: Admitted.

Request No. 139: *Admit that as part of ANDA 75-984, Faulding submitted to the FDA a Paragraph IV Certification stating that its generic Cardizem CD product did not infringe the patents listed in the Orange Book for Cardizem CD.*

Answer: Admitted.

Request No. 140: *Admit that Hoechst received notification of Faulding's Paragraph IV Certification to the FDA stating that Faulding's product that is the subject of ANDA 75-1169 did not infringe the patents listed in the Orange Book for Cardizem CD.*

Answer: Admitted.

Request No. 141: *Admit that on January 31, 1997, Hoechst filed a patent infringement action in the District of New Jersey, alleging that Faulding's generic product infringed U.S. Patent No. 5,439,689.*

Answer: Admitted.

Request No. 142: *Admit that the January 31, 1997 complaint filed by Hoechst against Faulding in the patent infringement action in the District of New Jersey did not allege that Faulding's generic product that is the subject of ANDA 75-984 infringed the '584 patent.*

Answer: Admitted. The '584 Patent was not the basis for HMR's patent infringement action against Faulding.

Request No. 143: *Admit that Hoechst has not initiated or prosecuted a patent infringement claim alleging that Faulding's generic product that is the subject of ANDA 75-984 infringed the '584 patent.*

Answer: Admitted.

Request No. 144: *Admit that Hoechst has never contended that Faulding's generic product that is the subject of ANDA 75-984 infringes the '584 patent.*

Answer: Admitted.

Request No. 145: *Admit that Hoechst does not have a good faith basis for alleging that Faulding's generic product that is the subject of ANDA 75-984 infringes the '584 patent.*

Answer: HMR objects to this request because it calls for a legal conclusion and because it seeks information protected from disclosure by the attorney-client and work product privileges.

Request No. 146: *Admit that sales of Faulding's generic Cardizem CD product commenced on December 21, 1999.*

Answer: HMR admits that Faulding commenced sales of a generic Cardizem® CD product on December 21, 1999, pursuant to a licence from HMR following it admission that its own product infringed HMR's patents.

Request No. 147: *Admit that Cardizem CD was first sold in the United States in January 1992.*

Answer: Admitted.

Request No. 148: *Admit that Cardene SR was first sold in the United States in March 1992.*

Answer: Admitted.

Request No. 149: *Admit that Dilacor XR was first sold in the United States in June 1992.*

Answer: Admitted.

Request No. 150: *Admit that Norvasc was first sold in the United States in September 1992.*

Answer: Admitted.

Request No. 151: *Admit that Adalat CC was first sold in the United States in July 1993.*

Answer: Admitted.

Request No. 152: *Admit that Sular was first sold in the United States in January 1996.*

Answer: Admitted.

Request No. 153: *Admit that Tiazac was first sold in the United States in January 1996.*

Answer: Admitted.

Request No. 154: *Admit that Covera HS was first sold in the United States in May 1996.*

Answer: Admitted.

Request No. 155: *Admit that Dynacirc CR was first sold in the United States in December 1996.*

Answer: Admitted.

Request No. 156: *Admit that Verelan PM was first sold in the United States in March 1999.*

Answer: Admitted.

Request No. 157: *Admit that Hoechst did not decrease the Average Wholesale Price (AWP) per unit of Cardizem CD 240 mg in 1992.*

Answer: Admitted.

Request No. 158: *Admit that Hoechst did not decrease the AWP per unit of Cardizem CD 240 mg in 1993.*

Answer: Admitted.

Request No. 159: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240 mg in 1993.*

Answer: Admitted.

Request No. 160: *Admit that Hoechst did not decrease the AWP per unit of Cardizem CD 240 mg in 1994.*

Answer: Admitted.

Request No. 161: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240 mg in June 1994.*

Answer: Admitted.

Request No. 162: *Admit that Hoechst did not decrease the AWP per unit of Cardizem CD 240 mg in 1995.*

Answer: Admitted.

Request No. 163: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240 mg in May 1995.*

Answer: Admitted in part and denied in part. The request is denied to the extent that the AWP for the bottle of 30 capsules remained the same.

Request No. 164: *Admit that Hoechst did not decrease the AWP per unit of Cardizem CD 240 mg in 1996.*

Answer: Admitted.

Request No. 165: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240 mg in April 1996.*

Answer: Admitted.

Request No. 166: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240 mg in December 1996.*

Answer: Admitted.

Request No. 167: *Admit that Hoechst did not decrease the AWP per unit of Cardizem CD 240 mg in 1997.*

Answer: Admitted.

Request No. 168: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240 mg in October 1997.*

Answer: Admitted.

Request No. 169: *Admit that Hoechst did not decrease the AWP per unit of Cardizem CD 240 mg in 1998.*

Answer: Admitted.

Request No. 170: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240mg in March 1998.*

Answer: Admitted.

Request No. 171: *Admit that Hoechst did not decrease the AWP per unit of Cardizem CD 240 mg in 1999.*

Answer: Admitted.

Request No. 172: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240 mg in January 1999.*

Answer: Admitted.

Request No. 173: *Admit that Hoechst did not decrease the AWP per unit of Cardizem CD 240 mg in 2000.*

Answer: Admitted.

Request No. 174: *Admit that Hoechst increased the AWP per unit of Cardizem CD 240 mg in January 2000.*

Answer: Admitted.

Request No. 175: *Admit that on January 31, 1996, Hoechst and Carderm filed the HMR/Andrx Patent Infringement Litigation against Andrx in the Southern District of Florida.*

Answer: Admitted.

Request No. 176: *Admit that on April 4, 1996, Andrx filed with the FDA an amendment to its ANDA No. 74-752.*

Answer: HMR can neither admit nor deny this request.

Request No. 177: *Admit that Andrx's April 4, 1996 amendment to ANDA No. 74-752 added an additional dissolution specification for the SR2 beads which requires that each lot of the SR2 beads release not less than 55% of the total amount of diltiazem after 18 hours when tested in the U.S. Pharmacopeia XXII Type 2 apparatus using 900 ml of 0.1 HCL at 37 degrees C and a paddle speed of 100 rpm.*

Answer: HMR can neither admit nor deny this request.

Request No. 178: *Admit that on August 2, 1997, Edward Stratemeier, Hoechst's General Counsel participated in a conference call with Biovail executives.*

Answer: Admitted.

Request No. 179: *Admit that on August 3-4, 1997, Edward Stratemeier participated in a meeting with Biovail executives at Biovail's offices near Toronto, Canada.*

Answer: Admitted.

Request No. 180: *Admit that no one from Hoechst other than Edward Stratemeier participated in the August 3-4 1997 meeting with Biovail executives at Biovail's offices near Toronto, Canada.*

Answer: Admitted.

Request No. 181: *Admit that during the August 3-4, 1997 meeting, the Biovail and Hoechst representatives discussed, among other things, Biovail's generic version of Cardizem CD, ANDA 75-1169.*

Answer: Admitted.

Request No. 182: *Admit that during the August 3-4 meeting, the Biovail and Hoechst representatives discussed, among other things, a possible collaboration between Biovail and Hoechst relating to a new therapeutic use for the Hoechst drug Probucol.*

Answer: Admitted.

Request No. 183: *Admit that prior to the conference call with Biovail on August 2, 1997, Edward Stratemeier had not discussed with Biovail a possible collaboration between Biovail and Hoechst relating to a new therapeutic use for the drug Probucol.*

Answer: Admitted.

Request No. 184: *Admit that prior to the conference call on August 2, 1997, no employee of Hoechst had discussed with Biovail a possible collaboration between Biovail and Hoechst relating to a new therapeutic use for the drug Probucol.*

Answer: Admitted.

Request No. 185: *Admit that on September 11, 1998, Andrx filed a supplement to its ANDA No. 74-752, which sought to add a small amount of a new ingredient to the SR2 bead coating and to change the dissolution specification for the SR2 bead to "not less than 65% of the total diltiazem after 18 hours."*

Answer: Admitted.

Request No. 186: *Admit that on October 7, 1998, Andrx notified Hoechst that it had filed a supplement to its approved ANDA No. 74-752.*

Answer: Admitted.

Request No. 187: *Admit that on January 8, 1999, Hoechst informed Andrx that FDA regulations required Andrx to provide Hoechst with a new Paragraph IV Certification that Andrx's Reformulated Product does not infringe the patents listed in the Orange Book for Cardizem CD.*

Answer: Admitted.

Request No. 188: *Admit that on January 19, 1999, Andrx informed Hoechst that it did not believe it was required to provide a new Paragraph IV Certification with respect to the Andrx's Reformulated Product.*

Answer: Admitted.

Request No. 189: *Admit that on January 15, 1999, Hoechst wrote to the FDA suggesting that Andrx was required to file a new Paragraph IV Certification for Andrx's Reformulated Product.*

Answer: Admitted.

Request No. 190: *Admit that on February 3, 1999, Andrx provided a Paragraph IV Certification to the FDA stating that Andrx's Reformulated Product did not infringe the patents listed in the Orange Book for Cardizem CD, including the '584 patent.*

Answer: Admitted.

Request No. 191: *Admit that Hoechst received a document from The Wilkerson Group entitled U.S. Cardizem CD Forecast and Valuation, dated April 15, 1993 ("1993 Report").*

Answer: Admitted.

Request No. 192: *Admit that Hoechst received a document from The Wilkerson Group entitled U.S. Cardizem CD Forecast and Valuation, dated April 15, 1993, identical to the document Bates stamped 1-27.*

Answer: Admitted.

Request No. 193: *Admit that Hoechst received a document from The Wilkerson Group entitled Hoechst Marion Roussel Client Briefing, dated November 1997.*

Answer: HMR has not been able to locate a document matching this description in its files. Accordingly, HMR can neither admit nor deny this request.

Request No. 194: *Admit that Hoechst received a document from The Wilkerson Group entitled Hoechst Marion Roussel Client Briefing, dated November 1997, identical to the document Bates stamped IBM 34-55.*

Answer: HMR has not been able to locate a document matching this description in its files. Accordingly, HMR can neither admit nor deny this request.

Request No. 195: *Admit that Hoechst received a document from The Wilkerson Group entitled Valuation of Cardizem CD and Smoking Cessation Assets Owned by Carderm Capital L.P. -- Kickoff Meeting, dated November 5, 1997.*

Answer: HMR has not been able to locate a document matching this description in its files. Accordingly, HMR can neither admit nor deny this request.

Request No. 196: *Admit that Hoechst received a document from The Wilkerson Group entitled Valuation of Cardizem CD and Smoking Cessation Assets Owned by Carderm Capital L.P. -- Kickoff Meeting, dated November 5, 1997, identical to the document Bates stamped IBM 13-23.*

Answer: HMR has not been able to locate a document matching this description in its files. Accordingly, HMR can neither admit nor deny this request.

Request No. 197: *Admit that Hoechst received a document from The Wilkerson Group entitled U.S. Cardizem CD Business Forecast and Valuation, dated November 12, 1997.*

Answer: HMR has not been able to locate a document matching this description in its files. Accordingly, HMR can neither admit nor deny this request.

Request No. 198: *Admit that Hoechst received a document from The Wilkerson Group entitled U.S. Cardizem CD Business Forecast and Valuation, dated November 12, 1997, identical to the document Bates stamped IBM 24-33.*

Answer: HMR has not been able to locate a document matching this description in its files. Accordingly, HMR can neither admit nor deny this request.

Request No. 199: *Admit that Hoechst received a document from The Wilkerson Group entitled Carderm Capital L.P. Assets Forecast and Valuation, dated December 2, 1997.*

Answer: HMR has not been able to locate a document matching this description in its files. Accordingly, HMR can neither admit nor deny this request.

Request No. 200: *Admit that Hoechst received a document from The Wilkerson Group entitled Carderm Capital L.P. Assets Forecast and Valuation, dated December 2, 1997, identical to the document Bates stamped IBM 56-74.*

Answer: HMR has not been able to locate a document matching this description in its files. Accordingly, HMR can neither admit nor deny this request.

Request No. 201: *Admit that Hoechst received a document from The Wilkerson Group entitled Cardizem CD Business and Habitrol Business: Forecasts and Valuations of Related Assets in Carderm Capital L.P., dated December 31, 1997 ("1997 Report").*

Answer: Admitted.

Request No. 202: *Admit that Hoechst received a document from The Wilkerson Group entitled Cardizem CD Business and Habitrol Business: Forecasts and Valuations of Related Assets in Carderm Capital L.P., dated December 31, 1997, identical to the document Bates stamped IBM 75-106.*

Answer: Admitted.

Request No. 203: *Admit that Hoechst received a document from The Wilkerson Group entitled Forecast and Valuation of Cardizem CD Business and Associated Assets and Smoking Cessation Asset, dated June 8, 2000 ("2000 Report").*

Answer: Admitted.

Request No. 204: *Admit that Hoechst received a document from The Wilkerson Group entitled Forecast and Valuation of Cardizem CD Business and Associated Assets and Smoking Cessation Asset, dated June 8, 2000, identical to the document Bates stamped IBM*

Answer: Admitted.

Request No. 205: *Admit that Hoechst asked The Wilkerson Group to use the same methodology for valuing the Cardizem CD asset in the 1997 and 2000 Reports as it had used in the 1993 Report.*

Answer: Admitted.

Request No. 206: *Admit that Hoechst discussed with The Wilkerson Group some or all of the questions identified in the document Bates stamped IBM 21.*

Answer: Admitted.

Request No. 207: *Admit that Hoechst provided The Wilkerson Group with information in preparation of the 1997 Report.*

Answer: Admitted.

Request No. 208: *Admit that The Wilkerson Group interviewed Hoechst employees in preparation of the 1997 Report.*

Answer: Admitted.

Request No. 209: *Admit that Hoechst commissioned The Wilkerson Group to prepare a valuation of the Cardizem CD asset in 1993.*

Answer: Admitted.

Request No. 210: *Admit that Hoechst paid for work performed by The Wilkerson Group in preparing a valuation of the Cardizem CD asset in 1993.*

Answer: Admitted.

Request No. 211: *Admit that Hoechst commissioned The Wilkerson Group to prepare a valuation of the Cardizem CD asset in 1997.*

Answer: Admitted.

Request No. 212: *Admit that Hoechst paid for work performed by The Wilkerson Group in preparing a valuation of the Cardizem CD asset in 1997.*

Answer: Admitted.

Request No. 213: *Admit that Hoechst commissioned The Wilkerson Group to prepare a valuation of the Cardizem CD asset in 2000.*

Answer: Admitted.

Request No. 214: *Admit that Hoechst paid for work performed by The Wilkerson Group in preparing a valuation of the Cardizem CD asset in 2000.*

Answer: Admitted.

Request No. 215: *Admit that Hoechst was aware of the methodology and data used by The Wilkerson Group in preparing the 1997 Report before the Report was issued.*

Answer: Admitted.

Request No. 216: *Admit that Hoechst is a corporation within the meaning of Section 4 of the Federal Trade Commission Act.*

Answer: Admitted.

We declare under penalty of perjury that the foregoing is true and correct.

Executed in Washington, D.C., on ~~October 18, 2000.~~ November 17, 2000.

AVENTIS PHARMACEUTICALS INC.

By: _____
Kay Noonan
(As company representative, based on knowledge, information, or belief, and without waiver of any privileges and immunities.)

SHOOK HARDY & BACON, LLP

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of **Hoechst Marion Roussel, Inc., et al.,** **Respondents.**	Docket No. 9293

CERTIFICATE OF SERVICE

I, Peter D. Bernstein, hereby certify that on November 17, 2000, a copy of Hoechst Marion Roussel, Inc.'s First Amended Objections and Responses to Complaint Counsel's First Request for Admissions was served upon the following persons by hand delivery and/or Federal Express as follows:

Donald S. Clark, Secretary
Federal Trade Commission
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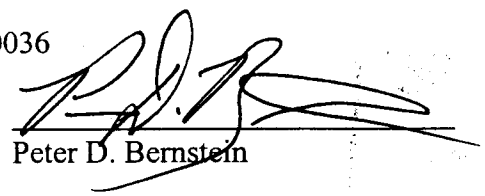

Peter D. Bernstein