

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



In the Matter of)
)
Schering-Plough Corporation,)
a corporation,)
)
Upsher-Smith Laboratories,)
a corporation,)
)
and)
)
American Home Products Corporation,)
A corporation.)

Docket No. 9297

PUBLIC VERSION

**RESPONDENT SCHERING-PLOUGH CORPORATION'S
MOTION FOR AN EXTENSION OF TIME TO FILE ITS
PREVIOUSLY SERVED MOTION *IN LIMINE* TO EXCLUDE THE
TESTIMONY OF UMESH V. BANAKAR AND MARTIN J. ADELMAN**

Respondent Schering-Plough Corporation ("Schering") respectfully requests an extension of time of one day, pursuant to Rule 4.3(b) of the Federal Trade Commission Rules of Practice, 16 C.F.R. § 4.3(b), to file its Motion *In Limine* to Exclude the Testimony of Umesh V. Banakar and Martin J. Adelman. (See Exhibit A, attached).

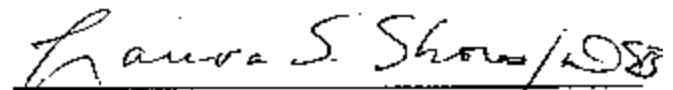
Pursuant to the Third Revised Scheduling Order in this case, entered on December 6, 2001, the deadline for filing motions *in limine* was January 3, 2002. On January 3, Schering filed four motions *in limine* with the Secretary of the Commission. However, Schering's paralegal David Chase did not arrive at the office of the Secretary of the Commission with Schering's fifth motion, a Motion *In Limine* to Exclude the Testimony of Umesh V. Banakar and Martin J. Adelman, until 5:04 p.m on January 3. The clerk refused to accept the filing, as the clerk's office had closed for the day. Thus,

despite Schering's best efforts, the filing of the motion *in limine* was untimely by a few minutes. 16 C.F.R. §4.3(d).

Nevertheless, Schering did serve its motion to exclude the testimony of Drs. Banakar and Adelman upon Complaint Counsel and respondent Upsher-Smith in a timely fashion on January 3. In addition, courtesy copies of the motion were provided to the Administrative Law Judge, D. Michael Chappell, on that date. Complaint Counsel will still have the full time provided in the Court's scheduling order to respond to Schering's motion. Thus, the untimely filing of Schering's motion *in limine* has not prejudiced any party or delayed the Court's consideration of the motion. Similarly, no prejudice would result if Schering were permitted to file this motion *in limine* regarding Drs. Banakar and Adelman one day out of time.

Thus, Schering respectfully requests that the Court permit Schering to file its motions *in limine* to exclude the testimony of Drs. Banakar and Adelman on January 4, 2002,

Respectfully submitted,



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Laura S. Shores
Charles A. Loughlin
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Attorneys for Respondent
Schering-Plough Corporation

Dated: January 4, 2002

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BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of)

Schering-Plough Corporation,)
a corporation,)

Upsher-Smith Laboratories,)
a corporation,)

and)

American Home Products Corporation,)
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Docket No. 9297

**ORDER GRANTING RESPONDENT'S MOTION
FOR AN EXTENSION OF TIME TO FILE ITS PREVIOUSLY SERVED MOTION
IN LIMINE TO EXCLUDE THE TESTIMONY OF UMESH V. BANAKAR AND
MARTIN J. ADELMAN**

Schering timely served its motion to exclude the testimony of Drs. Banakar and Adelman upon Compliant Counsel and respondent Upsher-Smith. Further, courtesy copies of its motion were timely provided to the Court. As such, the untimely filing of Schering's motion *in limine* will not prejudice any party or delay the Court's consideration of the motion.

Accordingly, IT IS HEREBY ORDERED that Respondent's motion for an extension of time to file its previously served motion in limine to exclude the testimony of Umesh V. Banakar and Martin J. Adelman is hereby GRANTED.

D. Michael Chappell
Administrative Law Judge

Dated: January _____, 2002

CERTIFICATE OF SERVICE

I hereby certify that this 4th day of January 2002, I caused an original, one paper copy and an electronic copy of Respondent Schering-Plough Corporation's Motion for An Extension of Time To File Its Motion *In Limine* to Exclude the Testimony of Umesh V. Banakar and Martin J. Adelman to be filed with the Secretary of the Commission, and that two paper copies were served by hand upon:

Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
Room 104
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

and one paper copy was hand delivered upon:

David Pender
Assistant Director, Bureau of Competition
Federal Trade Commission
Room S-3115
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Karen Bokar
Federal Trade Commission
Room 3410
601 Pennsylvania Ave, N.W.
Washington, D.C. 20580

Christopher Curran
White & Case LLP
601 13th St., N.W.
Washington, D.C. 20005


Diane E. Bieri

EXHIBIT REDACTED

SUBJECT TO CONFIDENTIAL PROTECTIVE ORDER