Original

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
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NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

In re: Vitamins Antitrust Litigation

MDL No. 1285

Misc. No. 99-0197 (TFH)

THIS DOCUMENT RELATES TO:

Blue Seal Feeds, Inc., et al. v.
Akzo Nobel, Inc., et al.,
Case No. 99CV3226 (N.D. Ill.)

Cactus Operating, Ltd., et al. v.
Akzo Nobel, Inc., et al.,
Case No. 2:99CV288-J (N.D. Tx.)

Marshall Durbin Farms, Inc., et al. v.
Akzo Nobel, Inc., et al.,
Case No. 2:99CV0152 (N.D. Ga.)

The Quaker Oats Company v.
BASF AG, et al.,
Case No. 99CV1972 (D.D.C.)

Southern States Cooperative, Inc., et al. v.
Akzo Nobel, Inc., et al.,
Case No. 5:99CV00070 (W.D. Va.)

Tyson Foods, Inc., et al. v.
Akzo Nobel, Inc., et al.,
Case No. 99CV5134 (W.D. Ark.)

Kellogg Company v.
BASF AG, et al.,
Case No. 99CV1996 (D.D.C.)

Meijer, Inc. v.
F. Hoffman-La Roche, Ltd., et al.
Case No. 1:99CV789 (W.D. Mich.)

- and -

Nutra-Blend, L.L.C. v.
F. Hoffman-La Roche, Ltd., et al.,
Case No. 99-33290CV-S-SOW (W.D. Mo.)

PH [~~PROPOSED~~] STIPULATION AND ORDER REGARDING JURISDICTIONAL BRIEFING SCHEDULE FOR RESPONSES TO THE COMPLAINTS

Plaintiffs in the above-captioned cases ("Plaintiffs") have purportedly effected service on Defendants Eisai Co., Ltd. ("ECL") and Takeda Chemical Industries, Ltd. ("TCI") (together the "Foreign Defendants"). On January 24, 2000, Defendants F. Hoffman-La Roche Ltd. and BASF AG filed motions to dismiss certain of the above-captioned cases limited exclusively to the following preliminary legal issue: Whether personal jurisdiction should be measured by local contacts with the transferor forum ("Local Contacts") or national contacts with the United States as a whole ("National Contacts) (hereinafter the "Jurisdiction Issue"). On January 24, 2000, pursuant to stipulated order (Docket No. 408) certain defendants filed motions addressing, among other things, the Jurisdiction Issue. Briefing on the Jurisdiction Issue will be complete on March 3, 2000. Oral argument on motions to dismiss the complaint in Cargill, Inc., et al. v. F. Hoffman-La Roche, Ltd., et al., Case No. 99-CV-5167, that were filed by defendants F. Hoffman-La Roche Ltd. and BASF AG is currently scheduled for March 16, 2000. The Jurisdiction Issue will also be addressed during the March 16 oral argument by the parties that have completed briefing that issue. The Plaintiffs believe that it would be more efficient for the

Court and for the parties if the Foreign Defendants answer, move against or otherwise respond to the complaints in the above-captioned cases as set forth below.

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the undersigned parties, that:

The Foreign Defendants time to answer, move against or otherwise respond to the complaints in each of the above-captioned cases shall be extended to and including March 8, 2000. The Foreign Defendants and Plaintiffs specifically agree that any arguments related to personal jurisdiction presented in any motion filed in response to any of the complaints in any of the above-captioned cases pursuant to the extension of time detailed in this paragraph will be limited to whether: (1) the relevant test for personal jurisdiction is Local Contacts or National Contacts; (2) the Foreign Defendants lack sufficient national contacts with the United States as a whole to subject them to personal jurisdiction; and (3) service of process was proper. The time for service and filing of opposition and reply papers shall be governed by Local Rule 7.1. The Foreign Defendants and Plaintiffs further agree that if the Foreign Defendants file a motion to dismiss any of the complaints in any of the above-captioned cases pursuant to the terms of this paragraph, such motion shall be deemed filed in response to the complaints in all of the above-captioned cases. In addition, the Foreign Defendants agree to file answers to the complaints in each of the above-captioned cases within twenty (20) days of this Court's ruling in any such case or the final disposition of any appeal therefrom that: (1) the relevant test for personal jurisdiction is National Contacts; and (2) ECL or TCI has sufficient national contacts, respectively, to subject them to personal jurisdiction.

The Foreign Defendants and Plaintiffs further specifically agree that if the Court determines that a test for personal jurisdiction other than National Contacts applies to any of the above-captioned cases, the Foreign Defendants will be permitted to file either: (1) motions to dismiss the complaints in any of the above-captioned cases (if a motion to dismiss the complaints in any of the above-captioned cases was not previously filed pursuant to the terms of the preceding paragraph of this Stipulation); or (2) supplemental memoranda of law in further support of their motions to dismiss the complaints in any of the above-captioned cases (filed pursuant to the terms of the preceding paragraph of this Stipulation). Such motions to dismiss or supplemental memoranda of law will be limited to the question of whether personal jurisdiction exists over each of the Foreign Defendants in each of the above-captioned cases under the test, other than National Contacts, determined by the Court. If the Court finds that the relevant test for personal jurisdiction is a test other than National Contacts, the parties will agree upon a briefing schedule for such motions to dismiss or supplemental memoranda of law in each of the above-captioned cases.

This stipulation is not intended to waive and does not waive any defenses, including the defenses of lack of jurisdiction and insufficiency of service of process or any right of any party to appeal any ruling by the District Court.

Dated: New York, New York
February 22, 2000

Respectfully submitted by,

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SO ORDERED:

Thomas F. Hogan

THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE

Feb. 24, 2000