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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re: Vitamins Antitrust Litigation	MDL No. 1285 Misc. No. 99-0197 (TFH)
THIS DOCUMENT RELATES TO: Cargill Incorporated., et al. v. F. Hoffman-La Roche, Ltd., et al., Case No. 99-C-5167 (N.D. Ill.)	Docket No. 99-5167

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

Plaintiffs in the above-captioned case ("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 a 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 the above-captioned case that were filed by defendants F. Hoffman-La Roche Ltd., BASF AG and Rhone-Poulenc S.A. 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 on that issue. The parties believe it would be more efficient for the Court and for the parties if

the Foreign Defendants answer, move against or otherwise respond to the complaint in the above-captioned case 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 complaint in the above-captioned case 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 the complaint in the above-captioned case 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 referenced in the Stipulation and Order Regarding Jurisdictional Briefing Schedule for Responses to Complaints, dated February 22, 2000, between the Foreign Defendants and certain other plaintiffs, such motion shall be deemed filed in response to the complaint in the above-captioned case. In addition, the Foreign Defendants agree to file an answer to the complaint in the above-captioned case within twenty (20) days of this Court's ruling in the above-captioned case 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 the above-captioned case, the Foreign Defendants will be permitted to file either: (1) a motion to dismiss the complaint in the above-captioned cases (if a motion to dismiss the complaint in the above-captioned case was not previously filed pursuant to the terms of the preceding paragraph of this Stipulation); or (2) a supplemental memorandum of law in further support of their motion to dismiss the complaint in the above-captioned case (filed pursuant to the terms of the preceding paragraph of this Stipulation). Such motion to dismiss or supplemental memorandum of law will be limited to the question of whether personal jurisdiction exists over each of the Foreign Defendants in the above-captioned case 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 motion to dismiss or supplemental memorandum of law.

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.

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* By agreeing to file an answer to the complaint in the above-captioned case within 20 days of a ruling by the Court that the relevant forum is the United States as a whole, the Foreign Defendants do not waive any rights they may have to appeal such a ruling or any rights they may have to seek a stay of their obligation to answer pending any such appeal.

Dated: New York, New York
February 25, 2000

Respectfully submitted by,

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Takeda Chemical Industries, Ltd.

SO ORDERED:

Thomas F. Hogan
THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE
Feb - 28, 2000