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 5 **BAXTER HEALTHCARE CORPORATION,**  
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 15 **FRESENIUS MEDICAL CARE HOLDINGS,**  
 16 **INC. AND FRESENIUS USA, INC.**

17 **UNITED STATES DISTRICT COURT**  
 18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
 19 **OAKLAND DIVISION**

20 BAXTER HEALTHCARE CORPORATION,  
 21 BAXTER INTERNATIONAL INC., BAXTER  
 HEALTHCARE SA, AND DEKA LIMITED  
 PARTNERSHIP,

22 *Plaintiffs and Counter-defendants,*

23 vs.

24 FRESENIUS MEDICAL CARE HOLDINGS,  
 25 INC., d/b/a FRESENIUS MEDICAL CARE  
 26 NORTH AMERICA, and FRESENIUS USA,  
 INC.,

27 *Defendants and Counter-claimants.*

Case No. C 07-01359 PJH (JL)

**STIPULATION OF DISMISSAL OF U.S.  
 PATENT NO. 5,324,422 WITH  
 PREJUDICE**

1 WHEREAS, the parties agree to dismiss all claims, defenses and counterclaims with  
2 respect to U.S. Patent No. 5,324,422;

3 NOW, THEREFORE, the parties and their counsel of record stipulate as follows:

- 4
- 5 • The parties dismiss from this suit, with prejudice, all claims, defenses and  
6 counterclaims relating to U.S. Patent No. 5,324,422, except that, in the event that any  
7 of the plaintiffs or their assignee ever assert the '422 patent against products not  
8 accused in this action, defendants may assert any defenses or counterclaims that they  
9 raised or could have raised in this action; and
  - 10 • The parties agree that each party shall bear its own costs and attorneys' fees as to  
11 such claims, defenses and counterclaims; and

12 IT IS SO ORDERED.

13 Dated: 7/2/10 \_\_\_\_\_

14 By: \_\_\_\_\_  
15 HONORABLE PHYLIS J. HAMILTON  
16 United States District Judge



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June 23, 2010

By: /s/ David K. Callahan /s/

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June 23, 2010

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June 23, 2010

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**FRESENIUS MEDICAL CARE HOLDINGS, INC. AND FRESENIUS USA, INC.**

1 **ELECTRONIC FILING DECLARATION OF DAVID K. CALLAHAN, P.C.**

2  
3 I, David K. Callahan, declare as follows:

- 4 1. I am a partner at Kirkland & Ellis LLP, and I am Baxter Healthcare  
5 Corporation's, Baxter International Inc.'s, and Baxter Healthcare SA's legal  
6 counsel in the above-captioned litigation.
- 7 2. Pursuant to the Northern District of California Electronic Filing Procedures and  
8 General Order No. 45, I attest that Maureen K. Toohey, counsel for Plaintiff  
9 DEKA Products Limited Partnership and Michael E. Florey, counsel for  
10 Fresenius Medical Care Holdings, Inc. and Fresenius USA, Inc. concur in the  
11 filing of this document and have granted me permission to electronically file this  
12 document absent their actual signatures.

13  
14 Dated: June 23, 2010

Respectfully submitted,

Kirkland & Ellis LLP

15  
16  
17 By: /s David K. Callahan s/  
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19 *Attorney for Plaintiffs and Counter-defendants*  
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