

McDERMOTT WILL & EMERY LLP
ATTORNEYS AT LAW
SILICON VALLEY

1 MCDERMOTT WILL & EMERY LLP
WILLIAM G. GAEDE, III (136184)
2 wgaede@mwe.com
TERRANCE P. MCMAHON (071910)
3 tmcmahon@mwe.com
ANDREW A. KUMAMOTO (178541)
4 akumamoto@mwe.com
275 Middlefield Road, Suite 100
Menlo Park, CA 94025
5 Telephone: (650) 815-7400
Facsimile: (650) 815-7401
6

Attorneys for *Depomed, Inc.*

7 RAKOCZY MOLINO MAZZOCHI SIWIK LLP
PAUL J. MOLINO (*Pro Hac Vice*)
8 paul@rmmslegal.com
WILLIAM A. RAKOCZY (*Pro Hac Vice*)
9 wrakoczy@rmmslegal.com
THEODORE J. CHIACCHO (*Pro Hac Vice*)
10 tchiacchio@rmmslegal.com
HEINZ J. SALMEN (*Pro Hac Vice*)
11 hsalmen@rmmslegal.com
6 West Hubbard Street, Suite 500
Chicago, IL 60654
12 Telephone: (312) 527-2157
Facsimile: (312) 222-6320
13

14 DURIE TANGRI LLP
DARALYN DURIE (169825)
ddurie@durietangri.com
15 SONALI MAITRA (254896)
smaitra@durietangri.com
16 332 Pine Street, Suite 200
San Francisco, CA 94104
17 Telephone: (415) 362-6666
Facsimile: (415) 236-6300
18

Attorneys for *Lupin Pharmaceuticals, Inc. and
Lupin Ltd.*

20 IN THE UNITED STATES DISTRICT COURT

21 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

22 DEPOMED, INC., a California
Corporation,

23 Plaintiff,

24 v.

25 LUPIN PHARMACEUTICALS, INC., a
26 Virginia Corporation, and LUPIN
LIMITED, an Indian Corporation,

27 Defendants.
28

No. 09-CV-05587 PJH

**CORRECTED STIPULATION FOR
EXTENSION OF TIME FOR
DEFENDANTS TO ANSWER OR
OTHERWISE RESPOND TO
PLAINTIFF'S COMPLAINT; AND
[PROPOSED] ORDER THEREON**

1 WHEREAS, Defendants' response to Plaintiff's complaint is presently due December 16,
2 2009;

3 WHEREAS, on December 11, 2009, Defendants filed a motion for extension of time to
4 respond to Plaintiff's Complaint;

5 WHEREAS, on December 14, 2009, Plaintiff filed an opposition to Defendants' motion
6 for extension.

7 WHEREAS, counsel conferred and agreed that Defendants may extend the time within
8 which to file their Response to Plaintiff's Complaint;

9 IT IS HEREBY STIPULATED, by and between the parties hereto, through their
10 respective counsel, as follows:

11 1. The time for Defendants Lupin Pharmaceuticals, Inc. and Lupin Ltd. to answer or
12 otherwise respond to Plaintiff's Complaint shall be extended 45 days, up to and including
13 January 30, 2010;

14 2. Defendants have identified the District of Maryland as a jurisdiction in which they
15 will not contest a protective suit filed by Plaintiff. *See Abbott Laboratories v. Mylan*
16 *Pharmaceuticals*, 2006 U.S. Dist. LEXIS 13782 (N.D. Ill. 2006) and Plaintiff's Opposition to
17 Defendants' Motion To Extend (Dkt. 29) for specifics on the issue under the Hatch-Waxman Act.
18 The parties agree that such identification is without prejudice and shall in no way bear upon
19 whether personal jurisdiction and venue in this jurisdiction is appropriate, nor bear upon whether
20 Maryland is a more convenient forum.

21 3. Plaintiff intends to file a protective complaint in the District of Maryland to
22 preserve Depomed's substantive interests under the Hatch-Waxman Act to preserve Depomed's
23 patent rights, consistent with the foregoing authority.

24 4. The parties have agreed to immediately stay any second-filed Maryland protective
25 suit upon filing, and have agreed that such stay shall remain in effect in a second-filed Maryland
26 action pending resolution of any jurisdictional issues that may arise from Defendants' response to
27 the Complaint in this first-filed action.

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SO STIPULATED this 15th day of December 2009.

MCDERMOTT WILL & EMERY LLP

By: /s/ William G. Gaede, III
 William G. Gaede, III

Attorneys for *Depomed, Inc.*

DURIE TANGRI LLP

By: /s/ Daralyn Durie
 Daralyn Durie

Attorneys for *Lupin Pharmaceuticals, Inc. and
Lupin Ltd.*

SIGNATURE ATTESTATION

Pursuant to General Order 45.X(B), I hereby attest that concurrence has been obtained from Daralyn Durie indicated by a “conformed” signature (/s/) within this e-filed document.

 /s/ William G. Gaede, III
 William G. Gaede, III

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 12/16/09

HONORABLE PHYLIS J. HAMILTON
United States District Court
Northern District of California

