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14 Attorneys for Plaintiff  
 15 EXELTIS USA, INC.

Attorneys for Defendant  
 FIRST DATABANK, INC.

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA  
 18 OAKLAND DIVISION

19 EXELTIS USA, INC., a New Jersey Corporation,  
 20 Plaintiff,  
 21 vs.  
 22 FIRST DATABANK, INC., a Missouri  
 Corporation,  
 23 Defendant.  
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Case No. 4:17-cv-04810-HSG

**STIPULATION AND ORDER  
 REGARDING FIRST DATABANK'S  
 CONDUCT AND BRIEFING SCHEDULE**

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Pursuant to Local Rules 6-2 and 7-12, the parties hereby stipulate to the following:

On August 17, 2017, Exeltis USA, Inc. (Exeltis) filed a Complaint (Dkt. No. 1) and Motion for Preliminary Injunction (Dkt No. 3), seeking to enjoin First Databank Inc. (First Databank) from changing its coding of prenatal vitamins designated by manufacturers as prescription (“Prescription Prenatal Vitamins”) from “F” to “O” in the Class field in First Databank’s drug database.

On the same day, Exeltis filed a Motion to Shorten Time (Dkt No. 4) for briefing and hearing on the Motion for Preliminary Injunction due to First Databank’s announcement that it would make this change effective September 15, 2017. In light of Exeltis’s continued discussions with the FDA concerning this issue, First Databank has agreed to postpone the September 15, 2017 date and the parties therefore respectfully request a different schedule.

The parties stipulate and agree as follows:

1. First Databank will maintain its current coding of “F” in the Class field for all Prescription Prenatal Vitamins, including Exeltis’s Prescription Prenatal Vitamins, until at least December 22, 2017.
2. The parties agree to cooperate with each other and the Court to maintain the status quo, should the Court need additional time to decide the motion for a preliminary injunction.
3. The parties will meet and confer to discuss a potential resolution of this matter.
4. In light of First Databank’s agreement to delay the change, Exeltis will withdraw its motion to expedite a hearing and briefing schedule for its preliminary injunction motion.

The delay in implementation of First Databank’s proposed change will further allow the Court to decide Exeltis’s motion for a preliminary injunction prior to First Databank’s new implementation date on a less expedited schedule should the case not be resolved prior to that date.

The parties jointly propose the following briefing and hearing schedule:

<u>Event</u>	<u>Date</u>
First Databank's Opposition to Exeltis's Motion for Preliminary Injunction	October 25, 2017
First Databank's Response to Complaint	October 25, 2017
Exeltis's Reply In Support of Motion for Preliminary Injunction	November 15, 2017
Case Management Conference	November 21, 2017 (pursuant to Dkt. 21)
Preliminary Injunction Hearing	November 29, 2017

DATED: August 25, 2017

Respectfully submitted,

By: /s/ Ryan Sandrock  
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3  
4 Attorneys for Plaintiff  
EXELTIS USA, INC.

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7  
8 **SIGNATURE ATTESTATION**

9  
10 I am the ECF User whose identification and password are being used to file the foregoing  
11 Stipulation and [Proposed] Order regarding First Databank's Conduct and Briefing Schedule. In  
12 compliance with Local Rule 5-1(i)(3), I hereby attest that the other signatories have concurred in this  
13 filing.

14 DATED: August 25, 2017

SIDLEY AUTIN LLP

15  
16 By: /s/ Ryan Sandrock  
Ryan M. Sandrock

17  
18 Attorneys for Plaintiff  
EXELTIS USA, INC

1 **ORDER**

2 Pursuant to the foregoing stipulation of the parties and good cause appearing, it is hereby  
3 ORDERED as followed:


- 4 1. The above Stipulation by the parties is GRANTED  
5 2. The Stipulation to Extend Briefing and Hearing Schedule is GRANTED;  
6 3. Exeltis's motion to expedite briefing and hearing (Dkt. No. 4) is DENIED as MOOT;  
7 4. The court ORDERS the following briefing and hearing schedule:

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<u>Event</u>	<u>Date</u>
First Databank's Opposition to Exeltis's Motion for Preliminary Injunction	October 25, 2017
First Databank's Response to Complaint	October 25, 2017
Exeltis's Reply In Support of Motion for Preliminary Injunction	November 15, 2017
Case Management Conference	November 21, 2017 (pursuant to Dkt. 21)
Preliminary Injunction Hearing	November 29, 2017 at 11:00 a.m.

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18 PURSUANT TO STIPULATION, IT IS SO ORDERED

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20 Dated: August 28, 2017

  
21 Hon. Haywood S. Gilliam, Jr.  
22 United States District Judge  
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