

MALTZMAN FOREMAN

ATTORNEYS AT LAW

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May 28, 2008

VIA ELECTRONIC MAIL

D. Jeffrey Ireland
Faruki, Ireland & Cox
500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, Ohio 45402

Re: *Blaszkowski et al. vs. Mars, Inc. et al.*
Case No. 07-21221

Dear Jeffrey :

Below you will find documents that we request to be produced for our review that is a subset of our original requests for production. We would like to review them by June 13, 2008. However, if you only plan to object, we would request your response by no later than June 6, 2008. If that is not feasible, please let me know.

1. Marketing materials. I have attached hereto Exhibit "A," which lists the specific products for the entity that you represent, The Iams Company, which I understand also produces Eukanuba. ("Iams") If I am incorrect about Eukanuba, kindly advise me. For these particular products we would like the following:

- A. Packaging:** An exemplar of the packaging that was used for each product between March 9, 2003 and March 9, 2007.
- B. Commercials:** An exemplar of each television commercial for the Iams / Eukanuba products listed on Exhibit "A" that ran on television, including cable stations, between March 9, 2003 and March 9, 2007. These commercials should include:
- Iams cat food with "Frankie"
 - Iams cat Food "stomach issues"
 - Iams cat food "Tabs the Cat"
 - Iams cat food "Heart"
 - Iams cat food "Cat Walk"
 - Iams cat food "sweater"
 - Iams cat food "playing with cat"
 - Iams cat food "man doing laundry"

Exhibit 2

- Iams cat food “If you aged”
- Iams cat food “weight control”
- Iams cat food “cats wouldn’t be cats”
- Iams Mult Cat food “Cats on Runway”
- Iams Multi Cat “Lazy Cat”
- Iams Multi Cat Food “running up stairs”
- Iams “snowball”
- Iams “Elvis”
- Iams dog food “dog park”
- Iams dog food “Buster the Dog”
- Iams dog food “Gus the Dog”
- Iams dog food “snow angel”
- Iams Select Bites
- Iams dog food “older dog”
- Iams dog food “shuffle board”
- Iams dog food “basketball hoop”
- Iams dog food “Frisbee”
- Iams dog food “dog years”
- Iams dog food “teeth”
- Iams dog food “shiny coat”
- Iams dog food “mature dogs”
- Iams dog food “immune boy / dog”
- Iams weight control dog food
- Iams Eukanuba dog food “dog rescuer”
- Iams Eukanuba dog food “reverse aging”

- C. **Print marketing:** This would encompass exemplars of each printed marketing material that ran in magazines or on displays at pet specialty or other retail stores or veterinary offices for each product on Exhibit “A” between March 9, 2003 and March 9, 2007.
- D. **In store marketing:** Exemplars of marketing materials used by employees or third parties in retail stores, including exemplars of items used for demonstration, for each product listed on Exhibit “A.” This would encompass direct marketing to consumers and to pet specialty retail employees.
- E. **Website:** Exemplars of statements made on Iam’s (or Eukanuba’s) website about its pet food products listed on Exhibit “A” between May 9, 2003 and May 9, 2007.
- F. **Veterinarian Recommended:** Please provide documents to support the statement referenced in the Fourth Amended Complaint (¶75) that Iams is “veterinarian recommended” and that “more vets recommend Iams than the leading grocery brand.”
- G. **Urinary Tract Health Claims:** Please provide documents to support the statement that Iams “Helps maintain urinary tract health – Iams research confirms the effectiveness of Iams Original Cat Food in reducing urinary pH while providing low

dietary magnesium for urinary tract health.” Please refer to ¶76 of the Fourth Amended Complaint and Exhibit 16.

- H. Wholesome protein sources:** Please provide documents supporting the “wholesome” protein sources that Iams uses in Iams original cat food, including those that provide “essential nutrients and amino acids for clear eyes and a strong heart.” Please refer to ¶76 of the Fourth Amended Complaint and Exhibit 16.

2. Ingredients: Documents reflecting the specific ingredients used in each product listed on Exhibit “A” between March 9, 2003 and March 9, 2004, including the source of where Iams / Eukanuba obtained the particular ingredient. This source material would include suppliers who provide vitamin pre-mixes, rendered material or other materials that are used to comprise the final wet or dry food products listed on Exhibit “A.”

3. Marketing Plans and Strategy: Documents reflecting Iam’s / Eukanuba’s marketing strategy and plans, including competitor information and plans to increase market share, between May 9, 2003 and May 9, 2007. This would specifically include the marketing strategy and plans behind the veterinarian recommended statements referenced in 1(E) above and in the Fourth Amended Complaint. Marketing strategy would include internal as well as market reports such as that prepared by Euromonitor or Packaged Facts.

4. Suppliers: A list or documents sufficient to identify the suppliers for the Iams / Eukanuba products listed on Exhibit “A,” which list would include rendering companies and co-packers as well as identify all companies from which you purchased vitamin pre-mixes, probiotics, or any other matter used in the products listed in Exhibit “A” between May 9, 2003 and May 9, 2007.

5. Marketing Materials Provided to Veterinarians and Breeders: Exemplars of marketing materials provided to veterinarians and breeders for all products listed on Exhibit “A” between May 9, 2003 and May 9, 2007, including any incentives, financial or otherwise, for recommending the product.

6. Agreements:

- A.** Copies of agreements that Iams / Eukanuba had or has with Pet Specialty Retailers regarding the display, marketing and sale of Iams / Eukanuba pet food between May 9, 2003 and May 9, 2007, including any and all incentives for encouraging consumers to purchase Iams / Eukanuba brand and products listed on Exhibit “A.”
- B.** Copies of agreements with rendering companies for products listed on Exhibit “A.”
- C.** Copies of agreements for any co-packers who may manufacture any product on Exhibit “A.”

7. Copies of any and all letters threatening to sue consumers for expressing concerns about your pet food products from May 9, 2003 to May 9, 2007.

This list is intended to be more narrow than the original requests. Since I am not aware of the manner or method of Iams / Eukanuba's record keeping, electronic or otherwise, if you feel that they are nevertheless overbroad, please advise and I will try to work with you on any of the specific requests that you so identify.

If you make an overbroad objection, I would like to discuss the manner and method of how the documents are maintained and whether they are in electronic or paper format. For example, if it is stored via a program with a search engine of some sort, as I suspect that most electronic files are maintained in that manner.

Very truly yours,

Sent in her absence to avoid delay

Catherine J. MacIvor

cc: All Plaintiffs of record
Alan Greer, Esquire (by electronic mail)

Exhibit "A"

Brand of Pet Food:

	Pet
Iams Active Maturity chicken flavor, canned	Cat
Iams Active Maturity dry dog food	Dog
Iams active maturity dry weight control mini chunks	Dog
Iams Active Maturity fish flavor, canned	Cat
Iams Active Maturity oceanfish flavor, canned	Cat
Iams adult	Dog
Iams adult maintenance formulas, canned (principally chicken or fish)	Cat
Iams adult maintenance formulas, dry (principally chicken or fish)	Cat
Iams biscuits weight control large	Dog
Iams biscuits weight control small	Dog
Iams chunks canned	Dog
Iams dry cat food	Cat
Iams dry maturity	Dog
Iams dry weight control	Dog
Iams Dry: Active Maturity	Cat
Iams Dry: Iams Kitten	Cat
Iams Dry: Indoor Weight and Hairball Control	Cat
Iams Dry: Multi-Cat with Chicken and Salmon	Cat
Iams Dry: Original with Lamb and Rice	Cat
Iams Dry: Original with Tuna	Cat
Iams Dry: Weight Control	Cat
Iams Eukanuba	Cat
Iams Eukanuba active for sporting dogs	Dog
Iams Eukanuba adult dry	Dog
Iams Eukanuba Adult Lamb & Rice Formula Dry Bagged Cat Food	Cat
Iams Eukanuba adult maintenance formulas, dry	Cat
Iams Eukanuba Cat Food - Adult Sensitive Stomach Formula Bagged	Cat
Iams Eukanuba dry weight control	Dog
Iams Eukanuba dry, original	Dog
Iams Eukanuba for puppy	Dog
Iams Eukanuba Natural Lamb & Rice Formula	Dog
Iams Eukanuba Natural Lamb & Rice Senior Medium Breed Bagged Dog Food	Dog
Iams Eukanuba puppy	Dog
Iams Eukanuba puppy dry	Dog
Iams Eukanuba Puppy weaning	Dog
Iams Eukanuba Senior Large Breed Maintenance Formula Dry Dog Food	Dog
Iams Eukanuba Senior Maintenance Formula Dry dog Food	Dog
Iams Eukanuba Senior Small Breed Dog Formula Dry Dog Food	Dog
Iams Eukanuba small breed adult	Dog
Iams Eukanuba small breed puppy	Dog
Iams Eukanuba, dry kitten	Cat
Iams Eukanuba, dry large breed	Dog
Iams Eukanuba, dry large breed puppy	Dog
Iams ground wet	Dog
Iams healthy weight formula, dry	Dog
Iams Kitten, dry	Cat
Iams Kitten, wet	Cat
Iams lamb and rice, dry	Dog

Brand of Pet Food:

Iams Lamb Meal and Rice Formula
Iams Oceanfish and rice, dry
Iams Oceanfish, canned
Iams original dog food
Iams puppy
Iams Select Bites
Iams select bites active maturity pouches
Iams select bites pouches active maturity weight control
Iams Senior, canned beef
Iams Senior, canned lamb
Iams Senior, canned lite
Iams weight control, dry
Iams weight control, dry mini chicken & rice
Iams, canned (mainly chicken)
Iams, canned adult
Iams, canned chunks with chicken and beef
Iams, canned flakes with salmon in sauce
Iams, canned flakes with tuna & ocean whitefish in sauce adult
Iams, canned puppy
Iams, dry (green bag)
Iams, dry adult
Iams, dry chicken
Iams, dry hairball & weight control
Iams, dry kitten
Iams, dry kitten
Iams, dry lamb
Iams, dry mini lamb & rice
Iams, dry Pro Active Health large breed
Iams, dry senior

Pet

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