

**MALTZMAN FOREMAN**

ATTORNEYS AT LAW

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June 2, 2008

**VIA ELECTRONIC MAIL**

James D. Arden, Esquire  
Sidley Austin LLP  
787 Seventh Avenue  
New York, New York 10019-6018

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

Dear Mr. Arden:

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, Hills Pet Nutrition ("Hill's") 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:
  - Science Diet Cat Food "Ginger"
  - Science Diet Dog Food "Daisy"
  - Science Diet Dog Food "Vet Michael Moran"
  - Science Diet Dog Food "sensitive skin"
- C. Print marketing:** This would encompass exemplars of 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.

**Exhibit 6**

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- 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 Hill'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 (¶77) that Hill's is "veterinarian recommended."
  - G. **Veterinary Schools / Students:** Please provide a summary of the amount of money Hill's or its parent Company spent on endowments to veterinary schools and stipends and discounts to veterinary students by year between March 9, 2003 and March 9, 2007.
  - H. **Veterinarians:** Please provide a summary or exemplars of the financial incentive offered to veterinarians to sell the products listed on Exhibit "A" to pet food consumers.
  - I. **Higher level of Vitamin C & E versus major competitive brands.** Please provide support for the statement that higher levels of Vitamin C & E is a benefit to cats and a list of the major competitive brands to which Hill's claims it is superior. See ¶79 of the Fourth Amended Complaint and Exhibit 18. Also, please provide support that extra vitamin C & E in cat food keeps cats' immune systems healthy. *Id.* Finally, please provide support that extra vitamin C & E help slow cell oxidation in cats.
  - J. **High Carnitine.** Please identify a document that reveals the source of the High Carnitine referenced in paragraph 79 and Exhibit 18 of the Fourth Amended Complaint. Please also provide documents that support the health benefit statements of "High Carnitine" set forth on Exhibit 18.
  - K. **Daily Dental Protection.** Please provide documents supporting the alleged dental benefits set forth on Exhibit 18 of the Fourth Amended Complaint.
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 Hill's 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 Hill'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 Hill's 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 Hill's had or has with Pet Specialty Retailers regarding the display, marketing and sale of Hill's pet food between May 9, 2003 and May 9, 2007, including any and all incentives for encouraging consumers to purchase Hill's 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 Hill'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

## Exhibit "A"

<b>Brand of Pet Food:</b>	<b>Pet</b>
Hill's Science Diet adult maintenance formulas hairball control, dry	Cat
Hill's Science Diet adult maintenance formulas weight loss, canned	Cat
Hill's Science Diet adult maintenance formulas weight loss, dry	Cat
Hill's Science Diet adult maintenance formulas, canned (principally chicken)	Cat
Hill's Science Diet kitten, canned	Cat
Hill's Science Diet kitten, dry	Cat
Hill's canine adult treats, large	Dog
Hill's canine jerky treats, Chicken with vegetable	Dog
Hill's canine light treats	Dog
Hill's canine senior treats	Dog
Hill's Dog Food Natures Best Box	Dog
Hill's Science Diet adult	Dog
Hill's Science Diet Adult 7+ Original Dog Food	Dog
Hill's Science Diet Adult 7+ Small Bites Dog Food	Dog
Hill's Science Diet Adult Canine Maintenance Treats Bag Dog Food	Dog
Hill's Science Diet Adult dry	Dog
Hill's Science Diet Adult Gourmet Beef Entrée Canned Dog Food	Dog
Hill's Science Diet Adult Large Breed Lamb Meal & Rice Recipe Dry Dog Food Bag	Dog
Hill's Science Diet adult maintenance senior formulas, canned (principally chicken or pork)	Cat
Hill's Science Diet adult maintenance senior formulas, canned Senior 7 Plus beef entrée	Cat
Hill's Science Diet adult maintenance senior formulas, canned Senior 7 Plus savory chicken	Cat
Hill's Science Diet adult maintenance senior formulas, canned weight loss	Cat
Hill's Science Diet adult maintenance senior formulas, dry hairball control	Cat
Hill's Science Diet adult maintenance senior formulas, dry weight loss	Cat
Hill's Science Diet Adult Savory Chicken Entrée Canned Dog Food	Dog
Hill's Science Diet Adult Small Bites Lamb Meal & Rice Recipe Dry Dog Food	Dog
Hill's Science Diet Advanced Protection Senior Dog Food	Dog
Hill's Science Diet Canine Maintenance Dog Food	Dog
Hill's Science Diet hairball control light dry	Cat
Hill's Science Diet hairball control, dry	Cat
Hill's Science Diet Hairball formula	Cat
Hill's Science Diet less active formula	Cat
Hill's Science Diet puppy	Dog
Hill's Science Diet puppy dry	Dog
Hill's Science Diet, dry adult	Cat
Hill's Science Diet, dry adult sensitive stomach	Dog
Hill's Science Diet, dry kitten	Cat
Hill's Science Diet, dry kitten	Cat
Hill's Science Diet, dry large breed growth formula	Dog
Hill's Science Diet, dry original formula	Dog
Hill's Science Diet, dry puppy formula	Dog
Hill's Science Diet, dry senior	Cat
Hill's Science Diet, dry sensitive skin	Dog
Hill's Science Diet: Adult Ocean Fish & Rice Recipe - Dry	Cat

<b>Brand of Pet Food:</b>	<b>Pet</b>
Hill's Science Diet: Adult Original - Dry	Cat
Hill's Science Diet: Advanced Protection Adult - Dry	Cat
Hill's Science Diet: Advanced Protection Senior 7+ - Dry	Cat
Hill's Science Diet: Hairball Control Adult - Dry	Cat
Hill's Science Diet: Hairball Control Mature Adult 7+- Dry	Cat
Hill's Science Diet: Indoor Cat Adult - Dry	Cat
Hill's Science Diet: Indoor Cat Mature Adult 7+ - Dry	Cat
Hill's Science Diet: Kitten Original - Dry	Cat
Hill's Science Diet: Light Adult - Dry	Cat
Hill's Science Diet: Mature Adult 7+ Original - Dry	Cat
Hill's Science Diet: Minced Gourmet Beef Entrée Adult - Canned	Cat
Hill's Science Diet: Minced Gourmet Beef Entrée Mature Adult 7+ - Canned	Cat
Hill's Science Diet: Minced Hairball Control Adult Seafood Entrée - Canned	Cat
Hill's Science Diet: Minced Indoor Cat Adult Seafood Entrée - Canned	Cat
Hill's Science Diet: Minced Light Adult - Canned	Cat
Hill's Science Diet: Minced Savory Salmon Entrée Adult - Canned	Cat
Hill's Science Diet: Minced Savory Salmon Entrée Kitten - Canned	Cat
Hill's Science Diet: Minced Savory Seafood Entrée Adult - Canned	Cat
Hill's Science Diet: Prescription: a/d Canine/Feline - Canned	Cat
Hill's Science Diet: Prescription: i/d Feline - Dry & Canned	Cat
Hill's Science Diet: Tender Chunks in Gravy Real Beef Dinner Adult - Pouch	Cat
Hill's Science Diet: Tender Chunks in Gravy Real Beef Dinner Kitten - Pouch	Cat
Hill's Science Diet: Tender Chunks in Gravy Real Ocean Fish Dinner Adult - Pouch	Cat
Hill's Science Diet: Tender Chunks in Gravy Real Tuna Dinner Adult - Pouch	Cat