

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

TRIANTAFYLLOS TAFAS,

Plaintiff,

- against -

JON. W. DUDAS, et al., et al.,

Defendants.

1:07cv846 JCC/TRJ
Judge Cacheris

SMITHKLINE BEECHAM CORPORATION, et al.,

Plaintiff,

- against -

JON. W. DUDAS, et al., et al.,

Defendants.

1:07cv1008 (JCC/TRJ)
Judge Cacheris

MOTION OF CFPH, LLC FOR LEAVE TO FILE SUBSTITUTE BRIEF *AMICUS CURIAE* IN SUPPORT OF PLAINTIFFS' ANTICIPATED SUMMARY JUDGMENT MOTIONS

CFPH, LLC (Cantor Fitzgerald Patent Holdings, "CFPH"), hereby moves for leave to file a substitute brief *amicus curiae*, in support of the anticipated motions for summary judgment of Plaintiffs SmithKline Beecham PLC and Glaxo Group Limited (collectively, "GSK") and Triantafyllos Tafas, if needed and in the event that this Court extends the date for other parties to file *amicus* briefs to December 27, 2007.

Paragraph 2 of the Court's Scheduling Order of November 29, 2007, set December 20, 2007 as the date for filing any and all *amicus* briefs. However, a subsequent Order on December 18, 2007 granted the motions of a number of different parties to file briefs *amicus curiae*. Further, this subsequent Order set December 27, 2007 as the date for filing such briefs. However, the Order was unclear whether this date applied to all *amicus curiae*, or just those named in the December 18, 2007 Order. Therefore, out of an abundance of caution, CFPH filed, *inter alia*, its Motion for Leave to File a Brief *Amicus Curiae* in Support of Plaintiffs' Anticipated Summary Judgment Motions and accompanying *amicus* brief on December 20, 2007.

If this Court extends until December 27, 2007 the date for *all amicus curiae* (and not just those listed in the December 18, 2007 Order) to file briefs, CFPH requests that it also be provided the same amount of time as the other *amicus curiae* and be allowed to file a substitute *amicus* brief, if circumstances arise necessitating such a filing, by no later than December 27, 2007.

December 20, 2007

Respectfully submitted,

By: _____/s/

Richard S. Meyer (VSB #66236)
TOWNSEND AND TOWNSEND AND CREW LLP
1301 K Street, N.W., Ninth Floor, East Tower
Washington, DC 20005
Telephone: (202) 481-9900
Facsimile: (202) 481-3972
e-mail: rmeyer@townsend.com

Jonathan D. Link (VSB #42951)
TOWNSEND AND TOWNSEND AND CREW LLP
1301 K Street, N.W., Ninth Floor, East Tower
Washington, DC 20005
Telephone: (202) 481-9900
Fax: (202) 481-3972
e-mail: jlink@townsend.com

ATTORNEYS FOR *AMICUS CURIAE*
CFPH, LLC

Of Counsel

Dean Alderucci, Esq.

Vice President and Assistant General Counsel
CFPH, LLC

110 East 59th Street

New York, NY 10022

Telephone: (212) 829-7009

Facsimile: (212) 308-7505

e-mail: dalderucci@cantor.com

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December 2007, I electronically filed in Case Nos. 1:07cv1008 and 1:07cv846 (JCC/TRJ) the foregoing "**MOTION OF CFPH, LLC FOR LEAVE TO FILE SUBSTITUTE BRIEF AMICUS CURIAE IN SUPPORT OF PLAINTIFFS' ANTICIPATED SUMMARY JUDGMENT MOTIONS**" and "**PROPOSED ORDER**" using the CM/ECF system and that service was thereby accomplished on:

Elizabeth M. Locke, Esq.
KIRKLAND & ELLIS LLP
655 15th Street, NW - Suite 1200
Washington, DC 20005
e-mail: elocke@kirkland.com

and

Craig C. Reilly, Esq.
RICHARD MCGETTIGAN REILLY & WEST PC
1725 Duke Street, Suite 600
Alexandria, VA 22314
e-mail: craig.reilly@rmrwlaw.com

Counsel for Plaintiffs in Civil Action No. 1:07cv1008 (JCC/TRJ)

Joseph Dale Wilson, III, Esq.
KELLEY DRYE & WARREN LLP
Washington Harbour
3050 K Street, NW, Suite 400
Washington, DC 20007
e-mail: jwilson@kelleydrye.com

Counsel for Plaintiff in Civil Action No. 1:A07cv846 (JCC/TRJ)

Lauren A. Wetzler, Esq.
United States Attorney's Office
2100 Jamison Ave.
Alexandria, VA 22314
e-mail: lauren.wetzler@usdoj.gov

Counsel for Defendants in Civil Action Nos. 1:07cv1008 (JCC/TRJ) and 1:07cv846 (JCC/TRJ)

Thomas J. O'Brien
Morgan, Lewis & Bockius
1111 Pennsylvania Ave., NW
Washington, DC 20004
e-mail: to'brien@morganlewis.com
Counsel for Amicus American Intellectual Property Lawyers Association

Dawn-Marie Bey
Kilpatrick Stockton, LLP
700 13th Street, NW Suite 800
Washington, DC 20005
e-mail: dbey@kslaw.com

Counsel for Amicus Hexas, LLC, The Roskamp Institute, Tikvah Therapeutics, Inc.

James Murphy Dowd
Wilmer Cutler Pickering Hale & Dorr LLP
1455 Pennsylvania Ave., NW
Washington, DC 20004
e-mail: james.dowd@wilmerhale.com

Counsel for Amicus Pharmaceutical Research and Manufacturers of America

Randall Karl Miller
Arnold & Porter LLP
1600 Tysons Blvd., Suite 900
McLean, VA 22102
e-mail: randall_miller@aporter.com

Counsel for Amici BIO and Monsanto Company

Charles Gorenstein
Michael K. Mutter
Birch, Stewart, Kolasch & Birch, LLP
8110 Gatehouse Rd, Suite 100 East
Falls Church, Virginia 22042
e-mail: cg@bskb.com

Counsel for Amicus Intellectual Property Institute of the William Mitchell College of Law

Rebecca M. Carr
Pillsbury Winthrop
Shaw Pittman, LLP
2300 N Street, N.W.
Washington, DC 20037
e-mail: rebecca.carr@pillsburylaw.com

Counsel for Amicus Elan Pharmaceuticals, Inc.

By: _____ /s/
Jonathan D. Link (VSB #42951)
TOWNSEND AND TOWNSEND AND CREW LLP
1301 K Street, N.W., Ninth Floor, East Tower
Washington, DC 20005
Telephone: (202) 481-9900
Fax: (202) 481-3972
e-mail: jlink@townsend.com

61240566 v1