

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BRISTOL-MYERS SQUIBB COMPANY and
PFIZER INC.,

Plaintiffs,

v.

MYLAN PHARMACEUTICALS INC.,

Defendant.

C.A. No. 17-379-LPS

**MYLAN PHARMACEUTICAL INC.'S RESPONSES AND OBJECTIONS TO
PLAINTIFFS' FIRST SET OF VENUE-RELATED REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS TO DEFENDANT MYLAN PHARMACEUTICALS INC.**

Pursuant to Rules 26 and 30 of Federal Rules of Civil Procedure and D Del. LR 26.1, Defendant Mylan Pharmaceuticals Inc. ("MPI") hereby serves its Responses and Objections to Plaintiffs' First Set of Venue-Related Requests for Production of Documents and Things to Defendant Mylan Pharmaceuticals Inc. (the "Requests") served by Plaintiffs Bristol-Myers Squibb Company and Pfizer Inc. (collectively, "Plaintiffs"). MPI reserves the right to supplement and/or amend its Responses and Objections as necessary or appropriate, including as provided for under Federal Rule of Civil Procedure 26(e) or in accordance with any Court Order.

Nothing herein is intended, or should be deemed, to waive any argument MPI has made in its Motion to Dismiss for Improper Venue (D.I. 14-16, 25-26), including that discovery related to MPI's Motion to Dismiss is improper.

GENERAL OBJECTIONS

MPI incorporates by reference, to the extent applicable, its General and Specific Objections set forth in response to Plaintiffs' First Set of Venue-Related Interrogatories to Defendant Mylan Pharmaceuticals Inc. and Plaintiffs' Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(6) to Defendant Mylan Pharmaceuticals Inc. Regarding Venue-Related Discovery,

which are served concurrently herewith. In addition, the following General Objections are incorporated by reference in each of MPI's specific Responses to Plaintiffs' Requests as if fully set forth herein:

1. MPI objects to the definitions of "MPI," "you," "your," and "yours" (a) to the extent that the definitions cause any Request to exceed the permissible scope of discovery under the Federal Rules of Civil Procedure; (b) to the extent they include any corporation, business, entity, or individuals other than MPI or its employees; (c) as overly broad, rendering the Requests unduly burdensome to the extent they seek information that is neither relevant to this lawsuit nor proportional to the needs of the case; and (d) as including "agents," "representatives," and "attorneys" to the extent the definitions cause a Request to call for information subject to the attorney-client privilege, work product doctrine, joint defense privilege, or any other privilege, protection, or immunity.

2. The discovery sought is improper, irrelevant, and disproportionate to the needs of the case pursuant to *In re Cray Inc.*, 871 F.3d 1355 (Fed. Cir. 2017). Under *Cray*, venue is proper here only if: (1) there is "a physical place in the district;" (2) that place is "a regular and established place of business;" and (3) that "place" is the defendant's. *See id.* at 1360-64. The undisputed facts already establish that there is no physical, geographical location fixed permanently in Delaware from where MPI conducts its business.

3. MPI objects to the definitions of "MPI Affiliate" and "MPI Delaware Affiliate" to the extent those terms define, describe, or include any corporate entity, formal or informal, other than MPI. Non-party subsidiaries are not relevant to the venue analysis. *See, e.g., In re Cray Inc.*, 871 F.3d 1355, 1363-64 (Fed. Cir. 2017); *Papercraft Corp. v. Proctor & Gamble Co.*, 439 F. Supp. 1060, 1062 (W.D. Pa. 1977) ("[T]his court cannot subject the parent to venue within

this district solely because the parent corporation owns a profitable subsidiary which is doing business here.”); *Am. Standard, Inc. v. Pfizer, Inc.*, No. 83-834-WKS, 1984 WL 63632, at *1 (D. Del. Apr. 26, 1984) (“I cannot, in the absence of some justifying evidence, ignore the separate corporate identities of these two corporations and attribute the allegedly infringing acts of [the subsidiary] to Pfizer for venue purposes.”).

4. MPI objects to the definitions of “Communication,” “Relate to,” “relates to,” “refers to,” “relating to,” “Describe,” “state,” “Identify,” and “Basis” as vague, overly broad and unduly burdensome and an attempt to impose burdens on MPI greater than or inconsistent with those imposed by the Federal Rules of Civil Procedure or the Local Rules for the United States District Court for the District of Delaware.

5. MPI objects to Plaintiffs’ definition that the “use of a verb in any tense shall be construed as the use of the verb in all other tenses” as vague, overly broad and unduly burdensome and an attempt to impose burdens on MPI greater than or inconsistent with those imposed by the Federal Rules of Civil Procedure or the Local Rules for the United States District Court for the District of Delaware. For example, and without limitation, this definition provides an unbounded irrelevant time periods.

6. These objections are made without waiver of and with preservation of:
- a. all questions as to competency, relevancy, materiality, privilege and admissibility of any information, documents and things, and the subject matter thereof, as evidence for any purpose and in any further proceeding in this action and in any other action;

- b. the right to object to the use of any such information, documents or things, or the subject matter thereof, on any ground in any further proceeding in this action and any other action;
- c. the right to object on any ground at any time to a demand or topic for further information, documents or things to these or any other deposition topics, requests for production or other discovery proceedings involving or related to the subject matter of the discovery to which these responses are provided; and
- d. the right at any time to review, revise, correct, add to, supplement or clarify any of the responses contained herein or the information, documents and things provided herewith.

7. MPI objects to the Requests as seeking premature discovery to the extent the Court has not fully addressed MPI's and Plaintiffs' joint initiation of the Discovery Matters Procedure with Judge Stark in connection with the Federal Circuit's precedential opinion, *In re Cray Inc.*, 871 F.3d 1355 (Fed. Cir. 2017), and responds only and to the extent required in view of the Federal Rules of Civil Procedure and/or the Local Rules for the United States District Court for the District of Delaware. In responding, MPI does not waive and will not waive its objections to venue, its arguments that this Court lacks venue, or its motion seeking dismissal for venue.

8. MPI objects to the Requests to the extent they are not reasonably calculated to lead to the discovery of admissible evidence or relevant to any claims or defenses of any party to this litigation. By responding to the Requests, MPI does not concede the relevancy or materiality of any Request, and MPI reserves the right to object to any further discovery on these matters

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