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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Kowa Company, Ltd.,  
Kowa Pharmaceuticals America, Inc., and  
Nissan Chemical Industries, Ltd.,

Plaintiffs,

v.

Mylan Inc. and  
Mylan Pharmaceuticals, Inc.,

Defendants.

Civil Action No. 14-cv-02647 (PAC)

**ANSWER TO COUNTERCLAIM**

Plaintiffs, Kowa Company, Ltd. (“KCL”), Kowa Pharmaceuticals America, Inc. (“KPA”) (collectively, “Kowa”), and Nissan Chemical Industries, Ltd. (“NCI”) (collectively, “Counterdefendants”) by their undersigned counsel, answer the counterclaim of defendants Mylan Pharmaceuticals, Inc. (“MPI”) and Mylan Inc. (“Mylan Inc.”) (collectively, “Counterplaintiffs” or “Mylan”), as follows:

### **The Parties**

1. Counterdefendants admit, on information and belief, the allegations contained in paragraph 1.

2. Counterdefendants admit, on information and belief, the allegations contained in paragraph 2.

3. Admitted.

4. Admitted.

5. Admitted.

### **Jurisdiction and Venue**

6. Paragraph 6 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that Counterplaintiffs' counterclaim purports to arise under the patent laws of the United States and purports to be for declaratory judgment.

7. Paragraph 7 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that Counterplaintiffs' counterclaim purports to arise under 28 U.S.C. §§ 1331 and 1338(a).

8. Paragraph 8 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that Counterdefendants consent to jurisdiction in this district for the purpose of the above-captioned action.

9. Paragraph 9 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b).

### **Patents-In-Suit**

10. Admitted.

11. Admitted.

12. Admitted.

13. Counterdefendants admit that NCI owns U.S. Patent Nos. 5,856,336 (“the ‘336 patent”) and 8,557,993 (the “’993 patent”) and that NCI and KCL own U.S. Patent No. 6,465,477 (“the ‘477 patent”). Counterdefendants further admit that they have the right to enforce the ‘336 patent, the ‘477 patent and the ’993 patent (collectively “the patents-in-suit”).

14. Admitted.

15. The allegations contained in paragraph 15 contain characterizations of a document which speaks for itself, and Counterdefendants deny the allegations contained in paragraph 15 to the extent incomplete or inconsistent with the Complaint. Further answering, Counterdefendants admit that they filed the Complaint in this action on or about April 14, 2014, and that the Complaint alleges infringement of the patents-in-suit as set forth therein.

### **Count I** **(Declaratory Judgment of Non-Infringement of the ‘336 Patent)**

16. In response to paragraph 16, Counterdefendants repeat and incorporate herein by reference their responses to paragraphs 1 through 15 above as if fully set forth herein.

17. Paragraph 17 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that Counterplaintiffs have purported to establish an actual controversy between themselves and Counterdefendants with respect to infringement of the ‘336 patent.

18. In response to paragraph 18, Counterdefendants deny the allegations contained therein.

19. In response to paragraph 19, Counterdefendants deny the allegations contained therein.

**Count II**  
**(Declaratory Judgment of Non-Infringement of the '477 Patent)**

20. In response to paragraph 20, Counterdefendants repeat and incorporate herein by reference their responses to paragraphs 1 through 19 above as if fully set forth herein.

21. Paragraph 21 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that Counterplaintiffs have purported to establish an actual controversy between themselves and Counterdefendants with respect to infringement of the '477 patent.

22. In response to paragraph 22, Counterdefendants deny the allegations contained therein.

23. In response to paragraph 23, Counterdefendants deny the allegations contained therein.

**Count III**  
**(Declaratory Judgment of Non-Infringement of the '993 Patent)**

24. In response to paragraph 24, Counterdefendants repeat and incorporate herein by reference their responses to paragraphs 1 through 23 above as if fully set forth herein.

25. Paragraph 25 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that Counterplaintiffs have purported to establish an actual controversy between themselves and Counterdefendants with respect to infringement of the '993 patent.

26. In response to paragraph 26, Counterdefendants deny the allegations contained therein.

27. In response to paragraph 27, Counterdefendants deny the allegations contained therein.

**Count IV**  
**(Declaratory Judgment of Invalidity of the '336 Patent)**

28. In response to paragraph 28, Counterdefendants repeat and incorporate herein by reference their responses to paragraphs 1 through 27 above as if fully set forth herein.

29. Paragraph 29 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that Counterplaintiffs have purported to establish an actual controversy between themselves and Counterdefendants with respect to validity of the '336 patent.

30. In response to paragraph 30, Counterdefendants deny the allegations contained therein.

31. In response to paragraph 31, Counterdefendants deny the allegations contained therein.

**Count V**  
**(Declaratory Judgment of Invalidity of the '477 Patent)**

32. In response to paragraph 32, Counterdefendants repeat and incorporate herein by reference their responses to paragraphs 1 through 31 above as if fully set forth herein.

33. Paragraph 33 states a conclusion of law rather than an allegation of fact to which a response is required. Counterdefendants admit, insofar as a response is required, that Counterplaintiffs have purported to establish an actual controversy between themselves and Counterdefendants with respect to validity of the '477 patent.

34. In response to paragraph 34, Counterdefendants deny the allegations contained therein.

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