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January 28, 2017

Hon. Paul A. Crotty  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 735  
New York, NY 10007

Re: *Kowa Company, Ltd. et al. v. Amneal Pharmaceuticals LLC, et al.*,  
Case Nos. 14-cv-2758 (PAC); 14-cv-7934 (PAC); and 15-cv-3935 (PAC);

Your Honor:

We write in connection with our letter of January 27, 2017, because Plaintiffs since then have continued to add Sawai documents to Dr. Byrn's list of intended exhibits, despite the facts that (a) Dr. Byrn has never disclosed any opinions about these documents (Rule 26), (b) Amneal and Apotex never saw these documents until trial, and (c) Plaintiffs have not offered any evidentiary foundation for these exhibits. Dr. Byrn is not a rebuttal witness. He is Plaintiffs' witness for their affirmative case of non-obviousness.

Ninety minutes ago this evening, Plaintiffs identified Sawai Exhibit 74, which would be in addition to Sawai Exhibit 14B. Neither of these exhibits even appears on Sawai's exhibit list submitted with the Pre-Trial Order in this case. Evidently, they were added at an even later date.

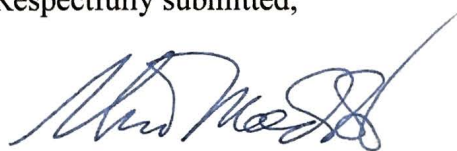
Sawai Exhibit 14B is a document predominantly in Japanese, with no translation provided. We are even now uncertain as to what Sawai Exhibit 74 is, except it appears to relate to some testing done by Sawai – and was the subject of some negotiations exclusively between Plaintiffs and Sawai.

We have filed this letter within hours of Plaintiffs' latest addition, because we believe these documents should be excluded for the same reasons PTX-735 should be excluded: namely, failure to have timely identified these documents as the basis for any expert opinion by Dr. Byrn; Amneal and Apotex's lack of access to these documents until trial; and lack (and impossibility now that Sawai has been dismissed) of any foundation for the admission of these documents. We hope that our prompt filing will allow Plaintiffs to address all such objectionable testimony and documents in their letter due by the end of tomorrow.

We maintain that the delay of identification until trial as the basis of undisclosed expert opinions, and absence of any supplemental report, make Amneal and Apotex's position even more compelling than Plaintiffs' was with respect to DTX-1442, which the Court excluded.

Finally, Plaintiffs have suggested in conversation that Amneal and Apotex had access to these documents by virtue of having been in a joint defense group with Sawai and all the other generic challengers, with whom Amneal and Apotex compete. As you would expect, however, the Joint Defense Agreement does not give any party rights to documents produced by others, and does not give any party rights to attend the depositions of others. Amneal and Apotex would be happy to provide a copy of the Joint Defense Agreement to the Court for *in camera* review, if the Court wishes to confirm this fact. We also note that the protective order in each case prohibits the use of one defendants' document against another without permission.

Respectfully submitted,



Steven A. Maddox

cc: All counsel of record