[redacted]

WORLDWIDE PLAZA
825 EIGHTH AVENUE
NEW YORK, NY 10019-7475

GEORGE J. GILLESPIE, III
THOMAS R. BROME
ROBERT D. JOFFE

FRANCIS P. BARRON
RICHARD W. CLARY
WILLIAM P. ROGERS, JR.

PETER T. BARBUR
SANDRA C. GOLDSTEIN
PAUL MICHALSKI

JULIE T. SPELLMAN
RONALD CAMI
MARK I. GREENE

RONALD S. ROLFE
PAUL C. SAUNDERS
DOUGLAS D. BROADWATER

STEPHEN L. GORDON
DANIEL L. MOSLEY
GREGORY M. SHAW

TELEPHONE: (212) 474-1000
FACSIMILE: (212) 474-3700

MICHAEL S. GOLDMAN
RICHARD HALL
ELIZABETH L. GRAYER

JAMES C. WOOLERY
DAVID R. MARRIOTT
MICHAEL A. PASKIN

MAX R. SHULMAN
STUART W. GOLD
JOHN W. WHITE

JAMES C. VARDELL, III
ROBERT H. BARON
KEVIN J. GREHAN

CITYPOINT
ONE ROPEMAKER STREET

STEPHEN L. BURNS
KATHERINE B. FORREST
KEITH R. HUMMEL

MICHAEL T. REYNOLDS
ANTONY L. RYAN
GEORGE E. ZOBITZ

part of our initial submission. The Settlement Agreement resolves the ANDA patent

litigation concerning the drug carboplatin and U.S. Patent No. 4,657,927. The Stipulation

Attachment Number 1

REDACTED

SETTLEMENT AGREEMENT

This Settlement Agreement and Release ("Settlement Agreement") dated and effective as of April 26, 2004, is entered into by and among Research Corporation Technologies,

[redacted]

WHEREAS, Pharmachemie answered and counterclaimed in the Litigation for a declaratory judgment that the '927 patent was invalid on the grounds of obviousness-type double patenting based on the claims of U.S. Patent No. 4,140,707 ("the '707 patent") in light of the prior art;

WHEREAS, Pharmachemie filed a motion for partial summary judgment seeking a pretrial ruling that the bar of the third sentence of 35 U.S.C. § 121 did not apply to prevent use of the '707 patent in an obviousness-type double patenting challenge to the '927 patent and the

[redacted]

Appeal") and on March 17, 2004, the Court of Appeals issued an opinion vacating that final judgment and remanding the Litigation to the District Court for further proceedings;

WHEREAS, Pharmachemie moved on March 19, 2004, to expedite issuance of the mandate and, before the Court of Appeals issued the mandate, the Plaintiffs filed on March 29, 2004, a petition for rehearing *en banc* ("the Petition for Rehearing");

WHEREAS, on April 6, 2004, the Court of Appeals denied Pharmachemie's motion to expedite issuance of the mandate;

WHEREAS, on April 9, 2004, the parties submitted a letter to the Court of Appeals informing the Court of Appeals that they had reached an agreement in principle to settle the matter;

WHEREAS, on April 21, 2004, the Court of Appeals denied the Petition for Rehearing;

WHEREAS, Pharmachemie acknowledges that BMS is entitled to a period of pediatric exclusivity with respect to Paraplatin® if and when granted by the FDA pursuant to 21 U.S.C. § 355a;

WHEREAS, the Plaintiffs and Defendant desire to avoid further expense and resolve all matters and issues in controversy between them, all without any admission by or on the part of any party of any liability of any nature whatsoever to any other party;

NOW, THEREFORE, in consideration of the promises and covenants contained

1. **Dismissal of Litigation.** As soon as practicable following the execution of this

Circuit a stipulation of dismissal and proposed order, in the form attached as Exhibit A, specifying that each party shall bear its own costs. The parties agree to file promptly any additional papers necessary or appropriate to effectuate the dismissal of the Litigation.

2. **Release of and Covenant not to Sue Plaintiffs.** In consideration of mutual

set forth in this Agreement and the Distribution and Supply Agreement between BMS and Teva Pharmaceuticals USA, Inc. (the "Distribution and Supply Agreement")

[redacted]

3. Release of and Covenant not to Sue Defendant. In consideration of mutual releases, licenses, covenants, agreements and/or other good and valuable consideration, the receipt of which is hereby acknowledged, BMS and RCT, including their respective

[redacted]

event the FDA grants final approval of either or both of ANDAs 76-162 and 76-292 before October 15, 2004.

representation or statement not set forth herein with regard to the subject matter, basis, or effect of this Settlement Agreement or otherwise.

8. Entire Agreement. This Settlement Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all prior negotiations, understandings and agreements are incorporated herein. This Settlement Agreement may not be modified, changed, amended, supplemented or rescinded except pursuant to a written instrument signed by the party against whom the enforcement of the modification, change, amendment, supplementation or rescission is sought.

9. Regulatory Review. Each party, within ten (10) days of the execution of this Settlement Agreement, shall comply with the requirements of Title XI, Subtitle B of the Access to Affordable Pharmaceuticals Act (the Medicare Prescription Drug Improvement Act of 2003, Pub. L. 108-173) (the "Act"), by filing a copy of this Settlement Agreement with the Federal Trade Commission (the "FTC") and the Antitrust Division of the Department of Justice ("DOJ"). BMS will make the following submissions and notices as soon as practicable and in any event no later than ten (10) days following the execution of this Settlement Agreement: (a) submission of this Settlement Agreement to the FTC in connection with the request for advisory opinion required by the April 14, 2003 Decision and Order in Federal Trade Commission Docket No. C-4076 (the "FTC Order"), (b) submission of this Settlement Agreement in connection with the

herein as the "Attorneys General"). The parties shall use commercially reasonable efforts to

made by the FTC, the DOJ or the Attorneys General. If the FTC, DOJ or Attorneys General

object to the Settlement Agreement, the parties shall use all commercially reasonable efforts to

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement as of the date first above written.

Dated: April __, 2004

Research Corporation Technologies, Inc.

By:_____

Dated: April __, 2004

Bristol-Myers Squibb Company

By_____

[redacted]

By:_____

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement as of the date first above written.

Dated: April 26, 2004

Research Corporation Technologies, Inc.

[redacted]

Dated: April __, 2004

Bristol-Myers Squibb Company

By_____

Dated: April __, 2004

Pharmachemie B.V.

By:_____

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement as of the date first above written.

Dated: April __, 2004

Research Corporation Technologies, Inc.

By:_____

Dated: April 26 2004

Bristol-Myers Squibb Company

By:_____

Dated: April __, 2004

Pharmachemie B.V.

By:_____

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement as of the date first above written.

Dated: April __, 2004

Research Corporation Technologies, Inc.

Dated: April __, 2004

Bristol-Myers Squibb Company

By_____

Dated: April 26, 2004

Pharmachemie B.V.

By: _____

EXHIBIT A

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

No. 03-1077

BRISTOL-MYERS SQUIBB COMPANY,

Plaintiff-Appellee,

and

RESEARCH CORPORATION TECHNOLOGIES, INC.,

Plaintiff-Appellee,

v.

PHARMACHEMIE B.V.,

Defendant-Appellant.

Appeal from the United States District Court for the District of New Jersey
in Case No. 01-CV-3751, Judge Mary L. Cooper

By: _____
David T. Pritikin
Constantine L. Trela, Jr.
Lisa A. Schneider
Marc A. Cavan
SIDLEY AUSTIN BROWN & WOOD LLP
10 South Dearborn Street
Chicago, IL 60603
(312) 853-7000
(312) 853-7036 (fax)

Counsel for Research Corporation Technologies, Inc.

By: _____

Robert L. Baechtold
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100
(212) 218-2200 (fax)

Counsel for Bristol-Myers Squibb Company

[redacted]

By: _____

Francis C. Lynch
Laurie S. Gill
PALMER & DODGE LLP
50 West State Street, Suite 1400

NOTE: Pursuant to Fed. Cir. R. 47.6, this order is not citable as precedent. It is a public order.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

03-1077

BRISTOL-MYERS SQUIBB COMPANY,

Plaintiff-Appellee,

and

RESEARCH CORPORATION TECHNOLOGIES, INC.

[redacted]

v.

PHARMACHEMIE B.V.,

Defendant-Appellant.

Appeal from the United States District Court for the District of New Jersey in Case No. 01-CV-3751, Judge Mary L. Cooper

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[PROPOSED] ORDER

Pursuant to the Stipulation of the parties dated April __, 2004 and by Federal Rule of Appellate Procedure 42(b),

[redacted]

[redacted] remanded to the district court with

[redacted]

instructions to dismiss the case.

No costs.

For the Court

Date: [redacted]

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

No. 03-1077

BRISTOL-MYERS SQUIBB COMPANY,

Plaintiff-Appellee,

and

RESEARCH CORPORATION TECHNOLOGIES, INC.,

Plaintiff-Appellee,

PHARMACHEMIE B.V.,

Defendant-Appellant.

Appeal from the United States District Court for the District of New Jersey in Case No. 01-CV-3751, Judge Mary L. Cooper

---

By: David T. Pritikin
by Anne M. Maher

David T. Pritikin
Constantine L. Trela, Jr.
Lisa A. Schneider
Marc A. Cavan
SIDLEY AUSTIN BROWN & WOOD LLP
10 South Dearborn Street
Chicago, IL 60603
(312) 853-7000
(312) 853-7036 (fax)

Counsel for Research Corporation Technologies, Inc.

By: Robert L. Baechtold
by Anne M. Maher

Robert L. Baechtold
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100
(212) 218-2200 (fax)

Counsel for Bristol-Myers Squibb Company

By: Francis C. Lynch
by Anne M. Maher

Francis C. Lynch
Laurie S. Gill
PALMER & DODGE LLP

NOTE: Pursuant to Fed. Cir. R. 47.6, this order is not citable as precedent. It is a public order.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

03-1077

BRISTOL-MYERS SQUIBB COMPANY,

Plaintiff-Appellee

and

[redacted]

v.

PHARMACHEMIE B.V.,

Defendant-Appellant.

Appeal dismissed. This case is remanded to the district court with instructions to dismiss the case.

No costs.

For the Court

Date: _____ _____

[redacted]

[redacted]

No. 03-1077

BRISTOL-MYERS SQUIBB COMPANY,

Plaintiff-Appellee

and

[redacted]

Plaintiff-Appellee,

v.

partner in the law firm of Fitzpatrick, Cella, Harper & Scinto, the attorney of record for Bristol-Myers Squibb Company in the above-captioned action.

3. On April 14, 2004 was given actual authority to sign the enclosed Stipulation of the Parties to Dismiss Appeal on behalf of David T. Pritikin, a partner of the law firm of Sidley, Austin, Brown & Wood LLP, the attorney of record for Research Corporation Technologies, Inc. in the above-captioned action.

4. On April 27, 2004, I was given actual to sign the enclosed Stipulation of the Parties to Dismiss Appeal on behalf of Francis Lynch, a partner in the law

[redacted]

firm of Palmer & Dodge, LLP, the attorney of record for Pharmachemie, B.V.

[redacted]

I hereby certify that on this 16th day of April, 2004, two copies of the foregoing STIPULATION OF THE PARTIES TO DISMISS APPEAL and [PROPOSED] ORDER were served upon counsel of record as follows:

Francis C. Lynch
Laurie S. Gill
PALMER & DODGE LLP
111 Huntington Avenue
Boston, MA 02199-7613

Counsel for Defendant-Appellant Pharmachemie B.V.

David T. Pritikin
SIDLEY AUSTIN BROWN & WOOD LLP
10 South Dearborn Street
Chicago, IL 60603

Counsel for Research Corporation Technologies, Inc.