IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION Plaintiff, v. CEPHALON, INC. Defendant.	Civil Action No. 08-cv-00244 (JDB)

DECLARATION OF SARALISA C. BRAU, ESQ.

I, Saralisa C. Brau, Esq., submit this declaration upon personal knowledge or information and belief:

1. I am an attorney, a member of the bar of the State of New York, and have been an attorney with the Federal Trade Commission since December 2005.

2. In April 2006 the Federal Trade Commission (the "Commission") began investigating a series of patent litigation settlement agreements between Cephalon, Inc. and potential competitors regarding the drug Provigil. As a result of the investigation, the Commission filed a complaint against Cephalon on February 13, 2008 in the U.S. District Court for the District of Columbia alleging antitrust violations under Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) (2000). I have been involved with the investigation and pending litigation since the matter commenced in April 2006.

3. When investigating possible antitrust violations, the Commission may, by statute, obtain documents and testimony through voluntary access letters and by compulsory process. The documents and testimony obtained in the course of an investigation provide a partial list of potential trial witnesses. This declaration identifies, without limitation, those potential trial witnesses and their location.

Documents Produced to the Commission in the Course of the Investigation

4. In June 2006 the Commission issued voluntary access letters to Cephalon and the four first-filer generic drug companies – Teva Pharmaceuticals USA, Inc., Ranbaxy Pharmaceuticals, Inc., Mylan Laboratories, Inc., and Barr Laboratories, Inc., – that had signed agreements with Cephalon settling the Provigil patent litigation. Between November 2006 and July 2007 the Commission issued *subpoenas duces tecum* and civil investigative demands to Cephalon and seven non-parties – Teva, Ranbaxy, Mylan, Barr, Watson Pharmaceuticals, Inc., Perrigo Company (and its subsidiary, Chemagis), and Takeda Pharmaceuticals North America.

5. As a result of these requests, the Commission has received internal business documents from Cephalon and generic companies related to the settlement of the Provigil patent litigation.

Testimony Taken by the Commission in the Course of the Investigation

6. The Commission has taken 24 investigational depositions in the course of its investigation. Nine investigational depositions were taken of Cephalon employee witnesses, and fifteen of non-party witnesses.

7. All nine Cephalon employees appeared voluntarily at investigational depositions held at the Commission's office in Washington, D.C.

8. All 15 non-party witnesses who gave testimony appeared voluntarily as well. As described below, nine of the non-party witnesses are located outside the subpoena power of the U.S. District Courts for both the District of Columbia and the Eastern District of Pennsylvania. Two of the non-party witnesses are located within the subpoena power of the District of Columbia. Four of the non-party witnesses are located within the subpoena power of the Eastern District of Pennsylvania.

9. Teva is based in North Wales, Pennsylvania. Four Teva employees testified in investigational depositions – the President and CEO of Teva USA, the General Counsel, the Deputy General Counsel, and the Chief Financial Officer of the North American business unit of Teva's API division. The four Teva employees work at Teva's office in North Wales. The Chief Financial Officer's investigational deposition took place at the Willkie Farr & Gallagher LLP office in New York, New York; the other three investigational depositions took place at the Commission's office in Washington, D.C. A partner at Kenyon & Kenyon LLP in New York, New York also testified regarding Teva's involvement in the Provigil settlement agreement. He testified at the Washington, D.C. offices of Willkie Farr & Gallagher LLP.

10. Ranbaxy is based in Princeton, New Jersey. Two Ranbaxy employees testified in investigational depositions held at the Commission's office in Washington, D.C. – the Vice President of Business Development and Licensing in North America and the Regional Director of North America. Both employees work at Ranbaxy's office in Princeton.

11. Mylan is based in Canonsburg, Pennsylvania, which is located in the Western District of Pennsylvania. Three Mylan employees testified in investigational depositions held at the Commission's office in Washington, D.C. – the President of Mylan Technologies, Inc., the Associate General Counsel of Operations, and the Chief Legal Officer. Mylan Technologies,

Inc. is located in St. Albans, Vermont, and its President works there. The Associate General Counsel and Chief Legal Officer both work at Mylan's office in Canonsburg.

12. Barr is based in Montvale, New Jersey. Three Barr employees testified in investigational depositions – the then-President and Chief Operating Officer, the Chairman and Chief Executive Officer, and the Executive Vice President and General Counsel. The President and Chief Operating Officer testified at the Kirkland & Ellis LLP office in New York, New York. He now works in Corona, California as President of Watson Pharmaceuticals, Inc. The Chairman and CEO and the Executive Vice President and General Counsel both testified at the Commission's office in Washington, D.C. The Chairman and CEO resides in Potomac, Maryland. The Executive Vice President and General Counsel resides in Bethesda, Maryland.

13. Watson is a drug company based in Corona, California. One Watson employee testified in an investigational deposition held at the Commission's office in Washington, D.C. – the Senior Vice President and General Counsel. He works at Watson's office in Corona.

14. Perrigo is a drug company based in Allegan, Michigan. One Perrigo employee testified in an investigational deposition held at the Commission's office in Washington, D.C. – the Executive Vice President, U.S. Pharmaceuticals. He works at Perrigo's office in Allegan.

Other Potential Non-Party Trial Witnesses

15. In addition to the partial list of potential trial witnesses identified above, the FTC has also identified, without limitation, the following companies whose as-yet-unidentified employees are potential trial witnesses as well.

16. Takeda is the Deerfield, Illinois-based U.S. subsidiary of a global drug company. Takeda entered into a co-promote agreement with Cephalon regarding Provigil.

17. Caraco Pharmaceutical Laboratories Ltd. is a generic drug company based in Detroit, Michigan. Caraco filed a Paragraph IV Abbreviated New Drug Application ("ANDA") for Provigil, but was not a first-filer. Cephalon did not sue Caraco for patent infringement, but Caraco cannot enter the market with a generic form of Provigil until one of the four first-filers has exhausted its 180-day marketing exclusivity.

18. Apotex, Inc. is a drug company based in Weston, Ontario in Canada. Its U.S. subsidiary, Apotex Corp., is located in Weston, Florida. Apotex filed a Paragraph IV ANDA for Provigil, but was not a first-filer. Cephalon did not sue Apotex for patent infringement, but Apotex cannot enter the market with a generic form of Provigil until one of the four first-filers has exhausted its 180-day marketing exclusivity.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 6, 2008

/s/ Saralisa C. Brau
Saralisa C. Brau, Esq.