

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

----- )  
WARNER CHILCOTT COMPANY, LLC and )  
HOFFMANN-LA ROCHE INC., )  
 )  
Plaintiffs, ) C.A. No. 08-627-LPS  
 )  
v. )  
 )  
TEVA PHARMACEUTICALS USA, INC., )  
 )  
Defendant. )  
----- )  
WARNER CHILCOTT COMPANY, LLC and )  
HOFFMANN-LA ROCHE INC., )  
 )  
Plaintiffs, )  
 )  
v. ) C.A. No. 09-143-LPS  
 ) (consolidated with C.A. No. 08-627-LPS)  
 )  
APOTEX, INC. AND APOTEX CORP., )  
 )  
Defendants. )  
----- )  
WARNER CHILCOTT COMPANY, LLC and )  
HOFFMANN-LA ROCHE INC., )  
 )  
Plaintiffs, )  
 )  
v. ) C.A. No. 10-285-LPS  
 ) (consolidated with C.A. No. 08-627-LPS)  
 )  
MYLAN PHARMACEUTICALS, INC., )  
 )  
Defendant. )  
----- )  
WARNER CHILCOTT COMPANY, LLC and )  
HOFFMANN-LA ROCHE INC., )  
 )  
Plaintiffs, )  
 )  
v. ) C.A. No. 09-61-LPS  
 ) (consolidated with C.A. No. 08-627-LPS)  
 )

SUN PHARMA GLOBAL, INC. )  
 )  
 Defendant. )  
 )  
 )

-----  
WARNER CHILCOTT COMPANY, LLC and )  
HOFFMANN-LA ROCHE INC., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
TEVA PHARMACEUTICALS USA, INC., )  
 )  
 Defendant. )  
 )  
 )

C.A. No. 11-81-LPS  
(consolidated with C.A. No. 08-627-LPS)

-----  
WARNER CHILCOTT COMPANY, LLC and )  
HOFFMANN-LA ROCHE INC., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
APOTEX, INC. AND APOTEX CORP., )  
 )  
 Defendants. )  
 )  
 )

C.A. No. 10-1111-LPS  
(consolidated with C.A. No. 08-627-LPS)

-----  
WARNER CHILCOTT COMPANY, LLC and )  
HOFFMANN-LA ROCHE INC., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
MYLAN PHARMACEUTICALS, INC., )  
 )  
 Defendant. )  
 )  
 )

C.A. No. 11-236-LPS  
(consolidated with C.A. No. 08-627-LPS)

-----  
WARNER CHILCOTT COMPANY, LLC and )  
HOFFMANN-LA ROCHE INC., )  
 )  
 Plaintiffs, )  
 )  
 )

C.A. No. 10-1085-LPS

v.	)	(consolidated with C.A. No. 08-627-LPS)
	)	
SUN PHARMA GLOBAL, INC.	)	
	)	
Defendant.	)	
	)	
	)	

**NOTICE OF DEPOSITION OF DAVID BURGIO**

**TO:** Mr. Allen Nunnally  
 Wilmer Cutler Pickering  
 Hale and Dorr LLP  
 60 State Street  
 Boston, MA 02109  
 allen.nunnally@wilmerhale.com

Please take notice that pursuant to agreement of the parties the Defendants in the above captioned matter will take the deposition of David Burgio on **March 30, 2011** at the offices of Wilmer Cutler Pickering Hale and Dorr LLP, located at 60 State Street, Boston, MA 02109 commencing at **9:30 a.m.** and continuing day to day thereafter until completed. The deposition will be taken before a court reporter authorized to administer oaths in the State of Massachusetts for use in the above litigation as provided in the Federal Rules of Civil Procedure. Attached hereto is a subpoena duces tecum identifying documents for the deponent to bring to the extent not already produced in this litigation. The testimony will be recorded by stenographic means and videotaped.

Dated: March 28, 2011

Respectfully submitted,

/s/ Richard W. Riley  
 Richard W. Riley (DE #4052)  
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AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

<u>Warner Chilcott Co. LLC &amp; Hoffman-La Roche, Inc.</u>	)	
<i>Plaintiff</i>	)	
v.	)	Civil Action No. 08-627-LPS&consolidated cases
<u>Teva Pharms. USA Inc., Apotex Inc., Apotex Corp.,</u>	)	
<u>Mylan Pharms. Inc., &amp; Sun Pharma Global, Inc.</u>	)	(If the action is pending in another district, state where:
<i>Defendant</i>	)	District of Delaware )

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: David Earnest Burgio, c/o Wilmer Cutler Pickering Hale and Dorr LLP, 60 State Street, Boston, MA 02109

*Testimony:* **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: The offices of Wilmer Cutler Pickering Hale and Dorr LLP, 60 State Street, Boston, MA 02109	Date and Time: 03/30/2011 9:30 am
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The deposition will be recorded by this method: stenographic and audiovisual means

*Production:* You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The documents described in schedule A hereto, to the extent not already produced in discovery in response to document production requests.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 03/28/2011

CLERK OF COURT

OR

/s/ Philip D. Segrest, Jr.

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

\_\_\_\_\_  
*Attorney's signature*

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) Apotex Inc. and Apotex Corp., who issues or requests this subpoena, are:

Philip D. Segrest, Jr., Husch Blackwell LLP, 120 S Riverside Plaza, Suite 2200, Chicago, Illinois 60606

## SCHEDULE A

### Definitions

In this schedule of documents, the following terms have the following definitions.

The term "patents in suit" denotes US 6,165,513; US 7,192,938; and US 7,718,634.

The term "Roche applications" denotes U.S. patent applications ser. nos. 10/430,007; 10/998,849; 11/390,227; 12/139,587; and 12/756,376.

The term "P&G applications" denotes U.S. patent applications ser. nos. 60/344,875; 10/321,208; 10/897,897; 11/725,896; 12/077,623; 12/163,155; and 12/163,278.

The term "document" or "documents" is used herein in a comprehensive sense as set forth in Federal Rule of Civil Procedure 34(a), and shall be defined to include, without limitation, all tangible things, all written, printed, typed, photocopies, photographic, graphic or recorded matter of any kind, any recorded material however produced or reproduced, including agreements, books, calendars, charts, contracts, communications, computer databases, computer memory media, computer printouts, correspondence, desk pads, diaries, drafts, drawings, entries in books of account, electronic mail, facsimile transmissions, files, folders, graphs, guidelines, instructions, lists, manuals, memoranda, minutes, notes, operating procedures, pamphlets, reports, rules, studies, telegrams, teletypes, and all written or tangible things that can be derived from any computer database, microfilm, microfiche, or other storage medium. A draft or non-identical copy is a separate document within the meaning of this term.

### Documents To Produce

To the extent not already produced in response to requests for production in this case, and to the extent in your possession, custody, or control, please bring to your deposition the following documents:

1. All documents relating to the patents in suit.
2. All documents relating to the Roche application.
3. All documents relating to the P&G applications.
4. All documents relating to the development of a dosing form of Actonel® (risedronate sodium) 150mg tablets, including documents relating to monthly dosing.

**CERTIFICATE OF SERVICE**

I, Richard W. Riley, hereby certify that on March 28, 2011, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for reviewing and downloading.

I, further certify that on March 28, 2011, a true and correct copy of the foregoing document was caused to be served on the attorneys of record at the following addresses and in the manner indicated:

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