

MRD 8 - 27-98

09-08-1998

Our Ref: 661-1/MBE



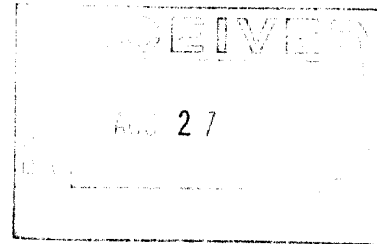
ET

100821993

The Honorable Commissioner
of Patents and Trademarks

Dear Sir:

Please record the attached original documents or copy thereof.



1. Name of conveying party(ies): DIALYSIS SOLUTIONS INC. [address-see pg. 6 of Sec. Agr.] Additional names(s) of conveying party attached [] yes [X] no	2. Name and address of receiving party(ies): Name: APOTEX PHARMACEUTICAL HOLDINGS INC. Internal Address:				
3. Nature of Conveyance: <input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input checked="" type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other	Street Address: 150 Signet Drive Weston, Ontario, Canada, M9L 1T9 Additional names(s) and addresses attached [] yes [X] no				
Execution Date: July 27, 1998 4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application is: <table border="0" style="width:100%"> <tr> <td style="width:50%">A. Patent Application No.(s)</td> <td style="width:50%">B. Patent No.(s)</td> </tr> <tr> <td style="text-align:center">08/961.778</td> <td></td> </tr> </table> Additional numbers attached? [] yes [X] no		A. Patent Application No.(s)	B. Patent No.(s)	08/961.778	
A. Patent Application No.(s)	B. Patent No.(s)				
08/961.778					
5. Name and address of party to whom correspondence concerning documents should be mailed: MARK B. EISEN 20 Queen St. W., Suite 3202, Box 102 Toronto, Ontario Canada M5H 3R3	6. Total number of applications and patents involved: 1 7. Total fee (37 CFR 3.41): \$ 40.00 <input checked="" type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Any deficiency authorized to be charged to deposit account 8. Deposit account number: 05-0647. (Attach duplicate copy of this page if paying by deposit account)				
<p style="text-align:center">DO NOT USE THIS SPACE</p>					
9. Statement and signature. <i>To the best of my knowledge and belief, the foregoing is true and correct and any attached copy is a true copy of the original document.</i> <table border="0" style="width:100%"> <tr> <td style="width:33%"> <u>Mark B. Eisen</u> Name of Person Signing </td> <td style="width:33%"> Signature </td> <td style="width:33%"> <u>August 24, 1998</u> Date </td> </tr> </table>		<u>Mark B. Eisen</u> Name of Person Signing	 Signature	<u>August 24, 1998</u> Date	
<u>Mark B. Eisen</u> Name of Person Signing	 Signature	<u>August 24, 1998</u> Date			

09/03/1998 JSHADAZZ 00000003 06961778
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DIALYSIS SOLUTIONS INC.
INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS AGREEMENT is made as of the 27th day of July, 1998, between **APOTEX PHARMACEUTICAL HOLDINGS INC.** and **DIALYSIS SOLUTIONS INC.**

WHEREAS:

A. **DIALYSIS SOLUTIONS INC.** (the "**Debtor**") is indebted or liable or may become indebted or liable to **APOTEX PHARMACEUTICAL HOLDINGS INC.** (the "**Creditor**") pursuant to a Loan Agreement dated as of July 27, 1988 between, the Debtor and the Creditor as amended, modified or restated from time to time (the "**Credit Agreement**"); and

B. To secure the payment and performance of its indebtedness, liabilities and obligations incurred or to be incurred in favour of the Creditor, the Debtor has agreed to pledge, mortgage, hypothecate and grant a security interest in all of its right, title, interest and benefit in, to, under and in respect of the Intellectual Property (as hereinafter defined) to the Creditor, on the terms and conditions set forth below.

NOW THEREFORE for good and valuable consideration (the receipt and adequacy of which are acknowledged by the parties), the parties agree as follows:

Article One - Interpretation

1.1 Definitions. In this Agreement and any Schedule hereto, unless there is something in the subject matter or text inconsistent therewith or unless the context otherwise specifies or requires, capitalized terms shall have the meanings set forth below:

"**Agreement**" means this Agreement, including the Schedules hereto, as the same may be amended, varied, supplemented, restated, renewed or replaced at any time and from time to time;

"**Business Day**" means any day other than a Saturday, Sunday or statutory holiday in the province referred to in the "Governing Law" section of this Agreement;

"**Collateral**" means all of the present and future Intellectual Property of the Debtor (including all such property at any time owned, leased or licensed by the Debtor, or in which the Debtor at any time has any interest or to which the Debtor is or may at any time become entitled) and all proceeds thereof, wherever located;

"**Credit Agreement**" has the meaning specified in recital A to this Agreement;

"**Default**" means the occurrence of an "Event of Default" as defined in the Credit Agreement;

"**Intellectual Property**" has the meaning described in Section 2.1 of this Agreement; and

"**Liabilities**" means all present and future indebtedness, liabilities and obligations of every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent matured or unmatured) of the Debtor to the Creditor, wherever and however incurred, and any unpaid balance thereof.

"**Permitted Encumbrances**" has the meaning ascribed in the Credit Agreement.

"**Security Interest**" means any mortgage, charge, pledge, hypothecation, lien (statutory or otherwise), assignment, finance lease, title retention agreement or arrangement, security interest or other encumbrance or adverse claim of any nature, or any other security agreement or arrangement creating in favour of any creditor a right in respect of a particular property.

1.2 **Interpretation Not Affected by Headings, etc.** Grammatical variations of any terms defined herein have similar meanings; words (including defined terms) importing the singular shall include the plural and vice versa; and words importing gender shall include the masculine, feminine and neuter genders. The division of this Agreement into separate Articles, Sections, Subsections, Paragraphs and Subparagraphs and the insertion of headings and marginal notes and references are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 **Severability.** If any covenant, obligation or agreement contained in this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such covenant, obligation or agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each covenant, obligation and agreement of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

1.4 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the Debtor hereby submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario for the purpose of all proceedings relating to this Agreement.

1.5 **Successors and Assigns.** This Agreement shall extend and enure to the benefit of the Creditor and its successors and assigns and shall be binding upon the Debtor and any of its successors and permitted assigns. The Creditor may from time to time assign or transfer all or any of the Liabilities or any interest therein and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, any such Liability or part thereof so transferred or assigned shall be and shall remain a "**Liability**" for the purposes of this Agreement and any immediate and successive assignee or transferee of any Liability or any interest therein shall, to the extent of the interest so assigned or transferred, be entitled to the benefit of, and the right to

enforce, this Agreement to the same extent as if such person were the Creditor. The Debtor's obligations hereunder shall not be assigned without the prior written consent of the Creditor.

1.6 **Amalgamation.** The Debtor acknowledges and agrees that in the event it amalgamates with any other company or companies it is the intention of the parties hereto that the mortgages, charges and security interests created hereby (i) shall extend to Intellectual Property owned by each of the amalgamating companies and the amalgamated company at the time of amalgamation and to any Intellectual Property thereafter owned or acquired by the amalgamated company, such that the term "**Debtor**" when used herein would apply to each of the amalgamating companies and the amalgamated company and (ii) shall secure the Liabilities of each of the amalgamating companies and the amalgamated company to the Creditor at the time of amalgamation and any Liabilities of the amalgamated company to the Creditor thereafter arising. The security interest shall attach to the additional Intellectual Property at the time of amalgamation and to any Intellectual Property owned or acquired by the amalgamated company when such becomes owned or is acquired.

Article Two - Security, etc.

2.1 **Security.** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, to secure the due payment and performance of all of the Liabilities, the Debtor hereby pledges, mortgages and hypothecates to and in favour of the Creditor, and grant to the Creditor a security interest in, all of its right, title and interest in respect of all intellectual property rights belonging to the Debtor, including but not limited to the following property, whether now existing, owned or used or hereafter existing, owned, acquired, adopted or used (collectively, the "**Intellectual Property**"):

- (a) all trade-marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other sources of business identifiers, and the goodwill associated therewith, all registrations and recordings thereof and all applications in connection therewith, including registrations, recordings and applications including those referred to in Schedule A to this Agreement, and all renewals thereof;
- (b) all copyrights in all works, including but not limited to all designs, drawings, logos, publications, computer programs or registrations of and all applications in connection with any of the foregoing, including all registrations, recordings and applications, including those referred to in Schedule B;
- (c) all patents, industrial designs, technology, patentable or impatentable inventions, know-how, trade secrets and other processes, any application for registration for any patent or industrial design, and all applications in any jurisdiction based on international patent applications filed pursuant to the Patent Corporation Treaty, including the applications and registrations referred to in Schedule C, and all reissues, divisions and continuations thereof;

- (d) all licenses and other agreements providing the Debtor with the right to use any items of the type described in clauses (a), (b) or (c), including each trade-mark license referred to in Schedule A hereto, each copyright license referred to in Schedule B hereto and each industrial design or patent license described in Schedule C hereto;
- (e) the right to sue third parties for past, present and future infringements or violations of any item described in clause (a), (b) or (c) and, to the extent applicable, clause (d); and
- (f) all proceeds of, and rights associated with, the foregoing, including any claim by the Debtor against third parties for past, present or future infringement or violation of any of the rights described in clauses (a) to (d) or for any injury to the goodwill associated with the use of any such trade-mark or for breach or enforcement of any license agreement described in clause (d), and all rights corresponding thereto throughout the world.

2.2 Agreement for Security Purposes. This Agreement has been executed and delivered by the Debtor for the purpose of recording the security interest of the Creditor in the Intellectual Property with the Canadian Trade-marks Office, the Canadian Copyright Office, the Canadian Patent Office and any similar government office or agency in other countries. The security interests granted hereby have been granted as a supplement to, and not in limitation of, the security interests granted by each of the Debtor to the Creditor under the general security agreement dated the date hereof. Such security agreement (and all rights and remedies of the Creditor therein) shall remain in full force and effect in accordance with its terms.

Article Three - Representations, Warranties and Covenants

3.1 The Debtor hereby represents, warrants or covenants to or with the Creditor, as the case may be, that:

- (a) Except for the Security Interest created hereby and the Permitted Encumbrances the Debtor is, or respecting the Collateral acquired after the date hereof will be, the owner of the Collateral free from any other Security Interest and the Debtor will keep the Collateral free and clear of all taxes, rates, levies, assessments, government fees or dues, liens and encumbrances, rights of distress, forfeiture, termination or sale or any other proceedings analogous thereto;
- (b) The Debtor will care for, protect and preserve the Collateral and not permit its value to be impaired and will not sell, transfer, assign or deliver or grant a Security Interest in or otherwise dispose of any such property or any interest therein without the prior written consent of the Creditor; and

- (c) This Agreement has been properly authorized and constitutes a legally valid and binding obligation of the Debtor enforceable in accordance with its terms.

Article Four - General

4.1 Apotex Pharmaceutical Holdings Inc. Appointment as Attorney-in-Fact. The Debtor constitutes and appoints the Creditor and any officer or agent of the Creditor, with full power of substitution, as the Debtor's true and lawful attorney-in-fact with full power and authority in the place of the Debtor and in the name of the Debtor or in its own name, from time to time in the Creditor's discretion during the continuance of a Default, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney acting reasonably, may be necessary or desirable to accomplish the purposes of this Agreement. These powers are coupled with an interest and are irrevocable until this Agreement is terminated and the Security Interests created by this Agreement are released. Nothing in this Section affects the right of the Creditor as secured party or any other Person on the Creditor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification agreements and other documents relating to the Collateral and this Agreement as the Creditor or such other Person considers appropriate.

4.2 Termination of this Agreement. Upon termination of all rights of the Debtor to receive any additional credit from the Creditor under the Credit Agreement and fulfillment by the Debtor of the Liabilities, this Agreement shall be and become fully ended and terminated and all right, title, estate and interest in and in respect of the Intellectual Property pledged, mortgaged, hypothecated and secured by the Debtor hereunder shall be released and all covenants and agreements of the Debtor hereunder shall be at an end and the Creditor shall, upon the written request of the Debtor and at the expense of the Debtor, execute such instruments and other documents and give such notifications or assurances as may be necessary to fully release, cancel and discharge this Agreement in the circumstances.

4.3 Rights and Remedies Cumulative. The rights or remedies given to the Creditor hereunder shall be cumulative and not substituted for any rights or remedies to which the Creditor may be entitled under the Credit Agreement, or any other agreement or security provided to the Creditor pursuant thereto or under statute or at law or in equity and may be exercised whether or not the Creditor has pursued or is then pursuing any other such rights and remedies.

4.4 Further Assurances. The Debtor shall do, perform, execute and deliver all acts, deeds, documents and assurances as may be necessary from time to time to give full force and effect to the intent of this Agreement; including, without limitation, the delivery of any additional security documents to further or better provide for a pledge, mortgage, hypothecation and security interest in favour of the Creditor in all Intellectual Property which the Debtor may hold from time to time.

4.5 Time of Essence. Time shall be of the essence of this Agreement.

4.6 Notices. Subject to the express provisions of this Agreement, all communications provided for or permitted hereunder shall be given by registered mail (receipt requested) or telecopy to the address specified below.

4.7 Communication. Any communication required or permitted to be given under this Agreement will be in writing and will be effectively given if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent prepaid by facsimile transmission or other similar means of electronic communication, in each case to the address or facsimile number of the Debtor or the Creditor set out in this Agreement. Any communication so given will be deemed to have been given and to have been received on the day of delivery if so delivered, or on the day of facsimile transmission or sending by other means of recorded electronic communication provided that such day is a Business Day and the communication is so delivered or sent prior to 4:30 p.m. (local time at the place of receipt). Otherwise, such communication will be deemed to have been given and to have been received on the following Business Day. Any communication sent by mail will be deemed to have been given and to have been received on the fifth Business Day following mailing, provided that no disruption of postal service is in effect. The Debtor and the Creditor may from time to time change their respective addresses or facsimile numbers for notice by giving notice to the other in accordance with the provisions of this Section.

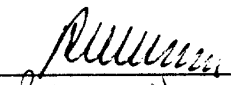
4.8 Amendments. This Agreement may not be modified or amended except with the written consent of the Debtor and the Creditor.

4.9 Conflict. To the extent that any term, condition, representation, covenant or other provision contained in this Agreement is at any time inconsistent or conflicts with any term, condition, representation, covenant or other provision contained in the Credit Agreement then the relevant term, condition, representation, covenant or other provision of the Credit Agreement shall govern.

IN WITNESS WHEREOF each of the parties hereto has duly executed this Agreement as of the day and year first written above.

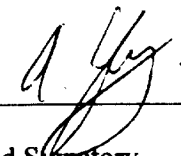
Address: 8400 Jane Street
Suite 200
Vaughan, Ontario
L4K 4L8
Attention: Peter Wilson, President
Facsimile: (905) 669-3832

DIALYSIS SOLUTIONS INC.

By: 
Name: Peter Wilson
Title: Authorized Signatory

Address: 150 Signet Drive
Weston, Ontario
M9L 1T9
Attention: Vice-President, Finance
Facsimile: (416) 401-3806

APOTEX PHARMACEUTICAL HOLDINGS INC.

By: 
Name: A. Gray
Title: Authorized Signatory

Schedule A

Canadian Registered Trade-marks

<u>Trade-mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
	N/A	

Pending Canadian Trade-mark Applications

<u>Trade-mark</u>	<u>Application No.</u>	<u>Filing Date</u>
	N/A	

American Registered Trade-marks

<u>Trade-mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
	N/A	

Pending American Trade-mark Applications

<u>Trade-mark</u>	<u>Application No.</u>	<u>Filing Date</u>
	N/A	

Trademark Licenses

N/A

Unregistered Trademarks

N/A

Trademarks for which the Debtor holds a License

N/A

Schedule B

Canadian Copyright Registrations and Applications

N/A

Copyright Licenses

N/A

American Copyright Registrations and Applications

N/A

Copyright Licenses

N/A

Schedule C

CANADIAN

Part I Industrial Designs and Pending Applications Therefor

N/A

Part II Patents

Canadian Serial No. 2,219,822
Filing Date October 31, 1997

Part III Patents Pending

N/A

Part IV Industrial Design and Patent Licenses

N/A

AMERICAN

Part I Industrial Designs and Pending Applications Therefor

N/A

Part II Patents

United States Patent Application 08/961,778
Filing Date: October 31, 1997

Part III Patents Pending

N/A

Part IV Industrial Design and Patent Licenses

N/A

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CANADA)
)
PROVINCE OF ONTARIO)
)
TO WIT:)

I, **PAUL FRANKLIN RESNICK**, a Notary Public by Royal Authority duly appointed, resident at the City of Toronto, in the Province of Ontario *DO CERTIFY AND ATTEST* that the paper writing hereto annexed is a true and complete copy produced to me of the original Intellectual Property Security Agreement between Apotex Pharmaceutical Holdings Inc. and Dialysis Solutions Inc. made as of the 27th day of July, 1998, the said copy having been compared by me with the original, an act whereof being requested I have granted the same under my notarial form and seal of office to serve and avail as occasion shall or may require.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 4th day of August, 1998.



A Notary Public in and for the
Province of Ontario

