

# PATENT ASSIGNMENT

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| SUBMISSION TYPE:   | NEW ASSIGNMENT                                      |
| NATURE OF CONVEYANCE:  | ASSIGNMENT  |
| <b>CONVEYING PARTY DATA</b>  |   |
| Name   | Execution Date                                      |
| Kos Pharmaceuticals, Inc.  | 07/17/2008  |
| <b>RECEIVING PARTY DATA</b>  |   |
| Name:  | Theta Biomedical Consulting & Development Co., Inc. |
| Street Address:  | 14 Parkman Street                                   |
| City:  | Brookline   |
| State/Country:   | MASSACHUSETTS                                       |
| Postal Code:   | 02446   |
| <b>PROPERTY NUMBERS Total: 4</b>   |   |
| Property Type  | Number  |
| Patent Number:   | 5250529   |
| Patent Number:   | 5648355   |
| Patent Number:   | 5855884   |
| Patent Number:   | 6020305   |
| <b>CORRESPONDENCE DATA</b>   |   |
| Fax Number:  | (617)526-5000                                       |
| <i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i> |   |
| Phone:   | 617.526.6000  |
| Email:   | kathleen.bastarache@wilmerhale.com                  |
| Correspondent Name:  | Kathleen M. Bastarache                              |
| Address Line 1:  | Wilmer Cutler Pickering Hale & Dorr LLP.            |
| Address Line 2:  | 60 State Street                                     |
| Address Line 4:  | Boston, MASSACHUSETTS 02109                         |
| ATTORNEY DOCKET NUMBER:  | 2003133.00120US4                                    |
| NAME OF SUBMITTER:   | Kathleen M. Bastarache                              |

CH \$160.00 5250529

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**PATENT**  
**REEL: 023180 FRAME: 0001**

**Total Attachments: 5**

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## AMENDMENT NO. 1 TO PATENT ASSIGNMENT AGREEMENT

THIS AMENDMENT NO. 1 TO PATENT ASSIGNMENT AGREEMENT ("Amendment No. 1 to Patent Assignment Agreement") is made as of the 1<sup>st</sup> day of July, 2008 (the "Amendment No. 1 Effective Date") by and between Kos Pharmaceuticals, Inc. ("Kos"), a Florida corporation having a principal place of business at 1001 Brickell Bay Drive, 25<sup>th</sup> Floor, Miami, FL 33131, and Theta Biomedical Consulting & Development Co., Inc., a Massachusetts corporation having a principal place of business at 14 Parkman Street, Brookline, Massachusetts 02446 ("Theta"), to the Patent Assignment Agreement dated as of September 20, 2004 (the "Patent Assignment Agreement").

WHEREAS, Kos is a wholly-owned subsidiary of Abbott Laboratories, a corporation organized and existing under the laws of the State of Illinois and having its principal office at 100 Abbott Park Road, Abbott Park, Illinois 60064 ("Abbott Laboratories");

WHEREAS, the Parties have determined that, as of the effective date of the Patent Assignment Agreement, Patent Numbers 5,821,259 and 5,994,357 (together, with all reissue applications, all divisional applications, all continuation applications, all continuation-in-part applications, all applications that claim priority from, or from which priority is claimed, the "'259 and '357 Patents") had not been assigned to Kos, and such patent rights have not thereafter been assigned to Kos;

WHEREAS, the Parties wish to amend the Patent Assignment Agreement to confirm that the '259 and '357 Patents are not subject to the Patent Assignment Agreement, to remove all references to the '259 and '357 Patents, and to confirm that no right, interest or license in, to or under the '259 and '357 Patents has been granted to Kos at any time; and

WHEREAS, the Parties wish to further amend the Patent Assignment Agreement, as set forth herein.

NOW THEREFORE, the Parties agree as follows, with effect from and after the Amendment No. 1 Effective Date:

1. All capitalized terms used herein but not defined herein shall have the meanings given to them in the Patent Assignment Agreement.

2. Section 1.5 of the Patent Assignment Agreement is hereby amended to read in its entirety as follows:

"Patents" shall mean United States Patent Numbers 5,250,529; 5,648,355; 5,855,884; and 6,020,305, as set forth in the attached Exhibit A and all reissue applications, all divisional applications, all continuation applications, all continuation-in-part applications, all applications that claim priority from, or from which priority is claimed by, any of the above, and all corresponding foreign applications, including but not limited to those set forth in the attached Exhibit A.

3. Exhibit A, Patents and Patent Applications is hereby amended to delete all references to the '259 and '357 Patents, and to incorporate additional information

regarding the Patents (as amended pursuant to this Amendment No. 1 to Patent Assignment Agreement) as of the Amendment No. 1 Effective Date. A revised Exhibit A is attached to this Amendment No. 1 to Patent Assignment Agreement as Schedule 1.

4. Section 2.2 of the Patent Assignment Agreement is hereby amended to read in its entirety as follows:

Theta agrees to reimburse Kos for Kos' expenditures related to research and development of inventions covered by the Patents and for prosecution and maintenance of the Patents, including the domestic and foreign prosecution and maintenance of all related patents and patent applications, ("Expenditures") only from Revenue Generated and only as specifically provided hereinafter in Article III below. The Parties agree that the total reimbursable costs for Kos' Expenditures for U.S. Patent No. 5,250,529 are two hundred fifty thousand U.S. dollars (\$250,000.00), Kos' Expenditures for U.S. Patent No. 5,648,355 are two hundred fifty thousand U.S. dollars (\$250,000.00), Kos' Expenditures for U.S. Patent No. 5,855,884 are two hundred fifty thousand U.S. dollars (\$250,000.00), and Kos' Expenditures for U.S. Patent No. 6,020,305 are two hundred fifty thousand U.S. dollars (\$250,000.00). The amount of Kos' Expenditures for each U.S. Patent set forth above includes Expenditures incurred in connection with all patents and applications, U.S. or foreign, that claim priority from, or from which priority is claimed by, such Patent, and no additional expenditures shall be deemed to have been incurred by Kos in such related patents or applications.

5. No right, interest or license in, to or under the '259 and '357 Patents, the subject matter contained therein or any claims related thereto is or has been granted to Kos at any time for any purpose. Kos hereby waives any and all rights in, to and under the '259 and '357 Patents, any subject matter contained therein and any and all claims related thereto of every kind and nature whatsoever.

6. Section 2.4 of the Patent Assignment Agreement, and all references to such Section 2.4 set forth in the Patent Assignment Agreement, are hereby deleted, and Section 2.4 and all such references thereto shall no longer be of any force or effect.

7. Section 3.2 of the Patent Assignment Agreement, and all references to such Section 3.2 set forth in the Patent Assignment Agreement, are hereby deleted, and Section 3.2 and all such references thereto shall no longer be of any force or effect.

8. The first sentence of Section 5.1 of the Patent Assignment Agreement is deleted in its entirety.

9. Section 11.1 of the Patent Assignment Agreement is hereby amended to read in its entirety as follows:

No Third Party shall benefit directly from this Agreement.

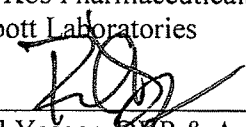
10. The Patent Assignment Agreement is confirmed and continues in all other respects.

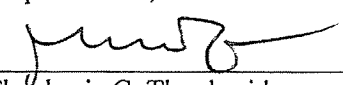
**EXECUTION COPY**

IN WITNESS WHEREOF, Theta, Kos and Abbott Laboratories have caused this Amendment No. 1 to Patent Assignment Agreement to be executed by their duly authorized representatives as of the Amendment No. 1 Effective Date.

For Kos Pharmaceuticals, Inc. and  
Abbott Laboratories

For Theta Biomedical Consulting &  
Development Co., Inc.:

  
\_\_\_\_\_  
Paul Yasger, DVP & Associate General  
Counsel, Patents and Trademarks,  
Abbott Laboratories

  
\_\_\_\_\_  
Dr. Theoharis C. Theoharides

\_\_\_\_\_  
Title

\_\_\_\_\_  
President

Schedule 1

## EXHIBIT A – PATENTS AND PATENT APPLICATIONS

US Patents and Patent Applications (in chronological order of submission)

| Subject   | Serial Number | Filing Date    | No. and Date               | Country |
|---|---------------|----------------|----------------------------|---------|
| Method of alleviating migraine headache   | US 07/815,124 | Feb. 8, 1990   | 5,250,529<br>Oct. 5, 1993  | USA     |
| Method of treatment of endogenous, painful gastrointestinal conditions, irritable bowel syndrome                                | US 08/193,597 | Feb. 9, 1995   | 5,648,355<br>July 15, 1997 | USA     |
| Treatment of stress-induced migraine headache with a corticotropin releasing hormone blocker                                    | US 08/562,873 | April 27, 1995 | 5,855,884<br>Jan. 5, 1999  | USA     |
| Treatment of stress-induced skin diseases by corticotropin releasing hormone antagonists and mast cell degranulation inhibitors | US 08/524,023 | July 30, 1996  | 6,020,305<br>Feb. 1, 2000  | USA     |

Foreign Patents

|  |             |                |                         |             |
|--|-------------|----------------|-------------------------|-------------|
| Method of alleviating migraine headache                                | US 92/11227 | Dec. 29, 1991  |                         | PCT         |
| Method of treatment of endogenous, painful gastrointestinal conditions | US 95/01392 | Feb. 9, 1995   |                         | PCT         |
| CRH receptor antagonists for atopic dermatitis                         | US 97/13776 | August 6, 1997 |                         | PCT         |
| Method for alleviating or preventing migraine headache onset           | 246748      | Dec. 28, 1992  | 246748<br>Dec. 28, 1992 | New Zealand |
| Method for alleviating or preventing migraine headache onset           | 34227/93    | Dec. 28, 1992  | 672,772<br>Feb. 4, 1997 | Australia   |

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| Subject   | Serial Number | Filing Date    | No. and Date                | Country       |
|---|---------------|----------------|-----------------------------|---------------|
| Method for alleviating or preventing migraine headache onset  | 93902768.6    | Dec. 28, 1992  | EP0618796<br>May 6, 1999    | E.P.C.        |
| Method for alleviating or preventing migraine headache onset  | 93902768.6    | Dec. 28, 1992  | 69229125.3<br>May 6, 1999   | Germany       |
| Method for alleviating or preventing migraine headache onset  | 93902768.6    | Dec. 28, 1992  | EP0618796<br>May 6, 1999    | Spain         |
| Method for alleviating or preventing migraine headache onset  | 93902768.6    | Dec. 28, 1992  | EP0618796<br>May 6, 1999    | Italy         |
| Method for alleviating or preventing migraine headache onset  | 93902768.6    | Dec. 28, 1992  | EP0618796<br>May 6, 1999    | France        |
| Method for alleviating or preventing migraine headache onset  | 93902768.6    | Dec. 28, 1992  | EP0618796<br>May 6, 1999    | Great Britain |
| Compositions comprising a mast cell degranulation blocking agent for treatment of endogenous, painful gastrointestinal conditions | 2183069       | Feb. 9, 1995   | Pending                     | Canada        |
| Method of treatment of irritable bowel disease with mast cell degranulation blocking agents                                       | 95909451.7    | Feb. 9, 1995   | EP0748217<br>August 7, 2002 | E.P.C.        |
| Treatment of stress-induced skin diseases by corticotropin releasing hormone antagonists and mast cell degranulation inhibitors   | 97936413.0    | August 6, 1997 | EP0942749<br>June 11, 2003  | E.P.C.        |