

**PATENT ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
<b>CONVEYING PARTY DATA</b>	
Name	Execution Date
GLAXO GROUP LIMITED	11/30/2009
<b>RECEIVING PARTY DATA</b>	
Name:	THERAVANCE, INC.
Street Address:	901 Gateway Boulevard
City:	South San Francisco
State/Country:	CALIFORNIA
Postal Code:	94080
<b>PROPERTY NUMBERS Total: 1</b>	
Property Type	Number
Application Number:	11327886
<b>CORRESPONDENCE DATA</b>	
Fax Number:	(650)808-6078
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	6508086000
Email:	lchuakay@theravance.com
Correspondent Name:	THERAVANCE, INC.
Address Line 1:	901 Gateway Boulevard
Address Line 4:	South San Francisco, CALIFORNIA 94080
ATTORNEY DOCKET NUMBER:	P-267-US1
NAME OF SUBMITTER:	Roberta P. Saxon
<b>Total Attachments: 8</b> source=P-267-US1 assignment#page1.tif source=P-267-US1 assignment#page2.tif source=P-267-US1 assignment#page3.tif source=P-267-US1 assignment#page4.tif source=P-267-US1 assignment#page5.tif	

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**First Assignment Agreement supplemental to the Collaboration Agreement dated 14 November 2002 relating to Long-Acting Beta-2 Adrenoceptor Agonists**

WHEREAS, Theravance, Inc., a Delaware corporation, and having its principal office at 901 Gateway Boulevard, South San Francisco, California 94080 ("Theravance") and Glaxo Group Limited, a United Kingdom corporation, and having its principal office at Glaxo Wellcome House, Berkeley Avenue, Greenford, Middlesex, UB6 0NN, United Kingdom ("GSK") entered into a Collaboration Agreement relating to Long-Acting Beta-2 Adrenoceptor Agonists on 14 November 2002 (the "Collaboration Agreement");

WHEREAS, pursuant to the Collaboration Agreement Theravance provided to GSK a Theravance New Compound known as GSK324279 (also known as TD-4306 or TV-4) in respect of which Theravance filed the Licensed Patents (as defined below) and GSK filed the Assigned Patents (as defined below);

WHEREAS, in February 2009 the Joint Steering Commitment decided to terminate the Development of GSK324279 at the stage of candidate selection; and

WHEREAS, GSK and Theravance have agreed formally to terminate GSK's obligations pursuant to the Collaboration Agreement with respect to the Licensed Patents and to assign the Assigned Patents to Theravance on the following terms and conditions.

NOW THEREFORE, in consideration for the mutual promises contained herein and other valuable consideration, the receipt of which is hereby acknowledged by each Party, Theravance and GSK agree as follows:

1. Defined Terms. Capitalized terms used but not defined in this Agreement shall have the meanings assigned to such terms in the Collaboration Agreement, as applicable.
2. GSK Representations and Warranties. GSK hereby represents and warrants to Theravance that as of the date of this Agreement:
  - a. Save for the Assigned Patents, GSK does not possess, own or have rights to any GSK Patents specifically related to GSK324279;
  - b. GSK is not aware, nor has been made aware, of any conflict or likely future conflict with the intellectual property rights of any Third Party with respect to the Assigned Patents;

- c. GSK has not received notice from any Third Party of a claim that an issued patent of such Third Party would be infringed by the manufacture, distribution, marketing or sale of GSK324279;
  - d. To GSK's knowledge, the Assigned Patents are not subject to any pending or threatened re-examination, opposition, interference or litigation proceedings;
  - e. GSK has not received notice from any Third Party of a claim asserting the invalidity, misuse, unregistrability or unenforceability of any of the Assigned Patents, or challenging its right to use or ownership of any of the Assigned Patents, or making any adverse claim of ownership thereof; and
  - f. GSK has not received notice from any Third Party that any trade secrets or other intellectual property rights of such Third Party would be misappropriated by the development and reduction to practice of the Assigned Patents.
3. Mutual Representations and Warranties. Each of GSK and Theravance hereby represents and warrants to the other as of the date of this Agreement:
- a. Such Party (a) is a company duly organized, validly existing, and in good standing under the Laws of its incorporation; (b) is duly qualified as a corporation and in good standing under the Laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires such qualification, where the failure to be so qualified would have a material adverse effect on its financial condition or its ability to perform its obligations hereunder; and (c) is in compliance with its charter documents.
  - b. The execution, delivery and performance of this Agreement by such Party and all instruments and documents to be delivered by such Party hereunder (a) are within the corporate power of such Party; (b) have been duly authorized by all necessary or proper corporate action; (c) do not conflict with any provision of the charter documents of such Party; (d) will not, to the best of such Party's knowledge, violate any law or regulation or any order or decree of any court of governmental instrumentality; (e) will not violate or conflict with any terms of any indenture, mortgage, deed of trust, lease, agreement, or other instrument to which such Party is a party, or by which such Party or any of its property is bound, which violation would have a material adverse effect on its ability to perform its obligations hereunder.
  - c. This Agreement has been duly executed and delivered by such Party and constitutes a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by applicable insolvency and other Laws affecting creditors' rights generally, or by the availability of equitable remedies.

- d. All of its employees, officers, and consultants have executed agreements or have existing obligations under law requiring assignment to such Party of all Inventions made by such individuals during the course of and as the result of their association with such Party, and obligating such individuals to maintain as confidential such Party's Confidential Information.
4. Status of GSK324279. The Parties acknowledge that with effect from 28 February 2009 GSK324279 is considered to be a Theravance Discontinued Compound.
5. Termination of GSK Obligations With Respect to Licensed Patents. Notwithstanding the provisions of Article 13 of the Collaboration Agreement, the Parties agree that with effect from 30 August 2009 GSK shall have no further obligations with respect to the patents and patent applications listed in schedule 1 hereto (the "Licensed Patents") including without limitation any obligation to reimburse any patent costs incurred by Theravance with respect to the Licensed Patents after 30 August 2009.
6. GSK Assignment to Theravance. GSK hereby assigns to Theravance absolutely all of its right, title and interest in and to those patents and patent applications listed in schedule 2 hereto (the "Assigned Patents") including (a) the right to recover, and take all such proceedings as may be necessary for the recovery of, damages or otherwise in respect of all infringements of any of the Assigned Patents, whether committed before or after the date of this agreement; (b) the entitlement to any patent(s) granted pursuant to any of the application(s) comprised in the Assigned Patents, for the full term of such patent(s); and (c) the right to apply for, prosecute and obtain patent or similar protection in all countries of the world for an invention embodied by any of the applications comprised in the Assigned Patents, including the right to claim priority from such applications and GSK further undertakes to execute, acknowledge, and deliver to Theravance all such further papers, including assignments and applications for patents, and complete any and all formalities and administrative proceedings as may be reasonably necessary to enable Theravance to protect the invention forming the subject-matter of the Assigned Patents by patent or otherwise in any and all countries and to vest title to Assigned Patents in Theravance or its nominees, their successors or assigns. GSK shall on Theravance's reasonable request furthermore have those of its employees that are named as inventors on the Assigned Patents and are employed by GSK at the time of Theravance's request render, for not more than ten (10) person days in total, all such reasonable assistance as Theravance may require in any patent office proceedings or litigation involving the Assigned Patents provided that: (a) Theravance shall pay a fee to GSK for such employees' time on a per-employee, per-day basis, with such per-day fee determined by dividing GSK's fully-burdened cost for the applicable employee by 365; (b) Theravance shall pay the cost of any travel and accommodation reasonably required in connection with GSK employees' providing reasonable assistance to Theravance pursuant to this Section5; and (c) all decisions taken in relation to such proceedings shall be taken by Theravance at Theravance's sole risk and GSK and its Affiliates shall not be responsible for any act or omission to act committed by Theravance or any Third Party in

reliance on any advice given by GSK or its Affiliates hereunder. Further, with regard to former employees who are named as inventors on the Assigned Patents, GSK shall on Theravance's reasonable request provide copies of such former employees' laboratory notebooks and other documents related to the relevant inventions. The cost of preparing and filing such patent applications shall be borne by Theravance as shall any costs incurred by GSK in respect of the Assigned Patents after 30 August 2009.

7. Indemnification.

- a. Theravance hereby agrees to defend, indemnify and hold harmless GSK, GSK's Affiliates and each of their officers, directors, shareholders, employees, successors and assigns from and against all Claims of Third Parties, and all associated Losses, to the extent arising out of (a) Theravance's negligence or willful misconduct in performing any of its obligations under this Agreement, or (b) a material breach by Theravance of any of its representations, warranties, covenants or agreements under this Agreement, or (c) the manufacture, use, handling, storage, marketing, sale, distribution or other disposition of GSK324279 by Theravance, its Affiliates, agents or sublicensees, except to the extent such losses result from the negligence or willful misconduct of GSK.
- b. GSK hereby agrees to defend, indemnify and hold harmless Theravance, Theravance's Affiliates and each of their officers, directors, shareholders, employees, successors and assigns from and against all Claims of Third Parties, and all associated Losses, to the extent arising out of (a) GSK's negligence or willful misconduct in performing any of its obligations under this Agreement, or (b) a material breach by GSK of any of its representations, warranties, covenants or agreements under this Agreement, except to the extent such losses result from the negligence or willful misconduct of Theravance.
- c. The procedure for indemnification set forth in Section 12.3 of the Collaboration Agreement shall govern the process for any indemnification matters between the Parties arising out of this Agreement.

8. Miscellaneous.

- a. Governing Law. This Agreement shall be construed, and the respective rights of the Parties determined, according to the substantive law of the State of Delaware notwithstanding the provisions governing conflict of laws under such Delaware law to the contrary.
- b. Notices. All demands, notices, consents, approvals, reports, requests and other communications hereunder must be made in writing pursuant to Section 16.7 of the Collaboration Agreement.
- c. Severability. In the event of the invalidity of any provisions of this Agreement or if this Agreement contains any gaps, the Parties agree that

such invalidity or gap shall not affect the validity of the remaining provisions of this Agreement. The Parties will replace an invalid provision or fill any gap with valid provisions which most closely approximate the purpose and economic effect of the invalid provision or, in case of a gap, the Parties' presumed intentions. In the event that the terms and conditions of this Agreement are materially altered as a result of the preceding sentences, the Parties shall renegotiate the terms and conditions of this Agreement in order to resolve any inequities. Nothing in this Agreement shall be interpreted so as to require either Party to violate any applicable laws, rules or regulations.

- d. Waiver. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion. Except as expressly set forth in this Agreement, all rights and remedies available to a Party, whether under this Agreement or afforded by law or otherwise, will be cumulative and not in the alternative to any other rights or remedies that may be available to such Party.
- e. Third Party Beneficiaries. None of the provisions of this Agreement shall be for the benefit of or enforceable by any Third Party, including without limitation any creditor of either Party hereto. No such Third Party shall obtain any right under any provision of this Agreement or shall by reasons of any such provision make any Claim in respect of any debt, liability or obligation (or otherwise) against either Party hereto.
- f. No License. Nothing in this Agreement shall be deemed to constitute the grant of any license or other right in either Party, to or in respect of GSK324279, patent, trademark, Confidential Information, trade secret or other data or any other intellectual property of the other Party, except as expressly set forth herein.
- g. Counterparts. This Agreement may be executed in any two counterparts, each of which, when executed, shall be deemed to be an original and both of which together shall constitute one and the same document.
- h. Further Assurances. In connection with this Agreement and the obligations contemplated hereby, but subject to the limitations set out herein, each Party will execute and deliver any additional documents and instruments and perform any additional acts that may be reasonably necessary or appropriate to give effect to the purposes of this Agreement and effectuate and perform each Party's obligations hereunder.


IN WITNESS WHEREOF, Theravance and GSK, by their duly authorized officers, have executed this agreement on November 30, 2009 (the "Effective Date").

THERAVANCE, INC.

GLAXO GROUP LIMITED

By: 

By: 

  
David Brinkley  
Head of Business  
Development  
Theravance, Inc.

Paul Williamson  
For and on behalf of  
Edinburgh Pharmaceutical Industries Limited  
Corporate Director



SCHEDULE 1

Country	Status	Application Number	Filing Date	Patent Number	Issue Date:
Argentina	Published	P050100092	11-Jan-2005		
Australia	Pending	2005206510	11-Jan-2005		
Brazil	Published	0506823-1	11-Jan-2005		
Canada	Pending	2,551,821	11-Jan-2005		
China (People's)	Published	200580002279.6	11-Jan-2005		
Colombia	Published	06.071.808	11-Jan-2005		
Algeria	Pending	060407	11-Jan-2005		
Egypt	Pending	655/2006	11-Jan-2005		
European Patent	Published	05711348.2	11-Jan-2005		
Gulf Cooperation	Pending	4203	12-Jan-2005		
Hong Kong	Published	07 192 349.7	02-Mar-2007		
Indonesia	Pending	W-00 2006 01951	11-Jan-2005		
Israel	Pending	176549	11-Jan-2005		
India	Pending	3881/DEL.NP/2006	11-Jan-2005		
Japan	Published	2006-549523	11-Jan-2005		
Korea, Republic of	Published	2006-7015602	11-Jan-2005		
Morocco	Granted	PV/29204	11-Jan-2005	28304	01-Nov-2006
Mexico	Pending	PA/a/2006/007723	11-Jan-2005		
Malaysia	Pending	PI20050084	10-Jan-2005		
Norway	Pending	20063620	11-Jan-2005		
New Zealand	Pending	548196	11-Jan-2005		
Philippines	Pending	1-2006-501341	11-Jan-2005		
Pakistan	Pending	9/2005	10-Jan-2005		
Russian Federation	Pending	2006129312	11-Jan-2005		
Singapore	Granted	200604679-1	11-Jan-2005	124011	30-Jan-2009
Thailand	Pending	096859	10-Jan-2005		
Trinidad and Tobago	Pending	TT/A/2006/00119	11-Jan-2005		
Taiwan	Published	093141433	30-Dec-2004		
United States of	Allowed	11/033,198	11-Jan-2005		
United States of	Pending	12/574,066	06-Oct-2009		
United States of	Expired	60/535,784	12-Jan-2004		
Venezuela	Pending	00014-2005	06-Jan-2005		
Viet Nam	Pending	1-2006-01322	11-Jan-2005		
Patent Cooperation	NAT PHASE	2005/000810	11-Jan-2005		
South Africa	Granted	2006/05720	11-Jan-2005	2006/5720	25-Sep-2008

SCHEDULE 2

Country	Application (Filing) Date	Application Number	Grant Date	Patent Number	Status	Expiration Date
China P.R.	9 Jan 2006	200680007309.7			Filed	
European Patent Convention	9 Jan 2006	06700503.3			Filed	
Japan	9 Jan 2006	2007-549866			Filed	
United States	9 Jan 2006	11/327886			Filed	