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14 Attorneys for Plaintiffs  
15 ALLERGAN USA, INC. and  
ALLERGAN INDUSTRIE, SAS

16 UNITED STATES DISTRICT COURT  
17 CENTRAL DISTRICT OF CALIFORNIA

18 ALLERGAN USA, INC., and  
19 ALLERGAN INDUSTRIE, SAS,

20 Plaintiffs,

21 v.

22 MEDICIS AESTHETICS, INC.,  
MEDICIS PHARMACEUTICAL CORP.,  
23 VALEANT PHARMACEUTICALS  
NORTH AMERICA LLC,  
24 VALEANT PHARMACEUTICALS  
INTERNATIONAL, VALEANT  
25 PHARMACEUTICALS  
INTERNATIONAL, INC., AND  
26 GALDERMA LABORATORIES, L.P.

27 Defendants.  
28

Case No. SACV13-01436 AG (JPRx)

**SECOND AMENDED COMPLAINT  
FOR PATENT INFRINGEMENT**

**JURY TRIAL DEMANDED**

1 Plaintiffs Allergan USA, Inc. and Allergan Industrie, SAS (collectively,  
2 “Allergan” or “Plaintiffs”) by their attorneys, Fish & Richardson P.C., amend their  
3 complaint against Defendants Medicis Aesthetics, Inc., Medicis Pharmaceutical  
4 Corp. (collectively, “Medicis”), Valeant Pharmaceuticals North America LLC,  
5 Valeant Pharmaceuticals International, and Valeant Pharmaceuticals International,  
6 Inc. (collectively, “Valeant”), Galderma Laboratories, L.P. (“Galderma”) (Medicis,  
7 Valeant, and Galderma collectively, the “Defendants”), and allege as follows:

8 **NATURE OF THE ACTION**

9 1. This is an action for infringement of United States Patent  
10 Nos. 8,450,475 and 8,357,795 (respectively, “the ’475 patent” and “the ’795  
11 patent”; collectively, “patents-in-suit”) which arises under the Patent Laws of the  
12 United States, including 35 U.S.C. § 271.

13 **PARTIES**

14 2. Allergan USA, Inc. is a corporation organized and existing under the  
15 laws of the State of Delaware, with a principal place of business at 2525 Dupont  
16 Drive, Irvine, California 92612.

17 3. Allergan Industrie, SAS is company incorporated in France, with a  
18 principal place of business at 254 ZA Pre Mairy, 74370 Pringy, France.

19 4. On information and belief, Defendant Medicis Aesthetics, Inc. is a  
20 corporation organized and existing under the laws of the State of Delaware with its  
21 principal place of business at 7720 N. Dobson Rd., Scottsdale, AZ 85456.

22 5. On information and belief, Defendant Medicis Pharmaceutical Corp. is  
23 a corporation organized and existing under the laws of the State of Delaware with its  
24 principal place of business at 7720 N. Dobson Rd., Scottsdale, AZ 85456.

25 6. On information and belief, Valeant Pharmaceuticals North America  
26 LLC is a corporation organized and existing under the laws of the State of Delaware  
27 with its principal place of business at 700 Route 202/206, Bridgewater, NJ 08807.  
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1           7.     On information and belief, Valeant Pharmaceuticals International is a  
2 corporation organized and existing under the laws of the State of Delaware with its  
3 principal place of business at 700 Route 202/206, Bridgewater, NJ 08807.

4           8.     On information and belief, Valeant Pharmaceuticals International, Inc.,  
5 is a corporation organized and existing under the laws of Canada with is principal  
6 place of business at 2150 St. Elzéar Blvd. West, Laval, Quebec H7L4A8, Canada.

7           9.     On information and belief, Medicis Aesthetics, Inc. is a subsidiary of  
8 Medicis Pharmaceutical Corp., which is a wholly-owned subsidiary of Valeant  
9 Pharmaceuticals International, Inc.

10          10.    On information and belief, Valeant Pharmaceuticals North America  
11 LLC is a subsidiary of Valeant Pharmaceuticals International, which is a subsidiary  
12 of Valeant Pharmaceuticals International, Inc.

13          11.    On information and belief, Galderma Laboratories, L.P., is a limited  
14 partnership organized and existing under the laws of the State of Texas, with its  
15 principal place of business at 14501 North Freeway, Fort Worth, TX 76177.

16                                   **JURISDICTION AND VENUE**

17          12.    This Court has subject matter jurisdiction over the action under 28  
18 U.S.C. §§ 1331 and 1338(a) because the action concerns a federal question arising  
19 under patent laws of the United States, including 35 U.S.C. § 271.

20          13.    Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1400(b),  
21 because, among other reasons, Defendants are both subject to personal jurisdiction  
22 in this judicial district and have committed acts of patent infringement in this  
23 judicial district.

24          14.    On information and belief, Defendants have placed infringing products  
25 into the stream of commerce by shipping those products into this judicial district  
26 and/or by knowing that such products would be shipped into this judicial district.  
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1 15. On information and belief, Defendants have sold and/or offered to sell  
2 products that infringe the patents-in-suit in this district.

3 **The Patents-in-Suit**

4 16. The '475 patent, entitled "Hyaluronic Acid-Based Gels Including  
5 Lidocaine," issued to Pierre F. Lebreton on May 28, 2013. A copy of the '475  
6 patent is attached to this complaint as Exhibit A.

7 17. Allergan Industrie, SAS, as assignee, owns the entire right, title, and  
8 interest in the '475 patent.

9 18. Allergan USA, Inc. is the exclusive licensee of the '475 patent.

10 19. The '795 patent, entitled "Hyaluronic Acid-Based Gels Including  
11 Lidocaine," issued to Pierre F. Lebreton on January 22, 2013. A copy of the '795  
12 patent is attached to this complaint as Exhibit B.

13 20. Allergan Industrie, SAS, as assignee, owns the entire right, title, and  
14 interest in the '795 patent.

15 21. Allergan USA, Inc. is the exclusive licensee of the '795 patent.

16 **Background**

17 22. Allergan is a leading developer, manufacturer, and distributor of dermal  
18 filler products in the United States, including JUVEDÉRM® Ultra XC,  
19 JUVEDÉRM® Ultra Plus XC, and JUVEDÉRM® VOLUMA™ XC (together,  
20 "Allergan's JUVEDÉRM® products").

21 23. Dermal fillers are products that are injected into facial tissue to smooth  
22 wrinkles and folds, especially around the nose and mouth. The United States dermal  
23 filler market is currently valued at over \$400 million annually.

24 24. Allergan's JUVEDÉRM® products are injectable hyaluronic acid gels  
25 that contain a small quantity of local anesthetic, lidocaine. Allergan's  
26 JUVEDÉRM® products temporarily add volume to facial tissue and restore a  
27 smoother appearance to the face. The lidocaine included in the gel improves the  
28

1 comfort of the injection. The effects of Allergan's JUVEDÉRM® products last  
2 about 9 months to 1 year. Allergan's JUVEDÉRM® products are the only  
3 hyaluronic acid dermal fillers approved by the Food and Drug Administration to last  
4 up to one year from initial treatment.

5 25. Allergan marks its JUVEDÉRM® products with the '475 and '795  
6 patents using its website at: [http://www.allergan.com/products/patent\\_notices.htm](http://www.allergan.com/products/patent_notices.htm).

7 26. On information and belief, Defendants, on their own and/or through  
8 their subsidiaries, sell, offer to sell, and/or import into the United States Restylane-  
9 L®, a dermal filler. On information and belief, Restylane-L® is an injectable  
10 hyaluronic acid gel that includes lidocaine, and is indicated for the correction of  
11 moderate to severe facial wrinkles and folds.

12 27. On information and belief, Defendants, on their own and/or through  
13 their subsidiaries, sell, offer to sell, and/or import into the United States Perlane-L®,  
14 a dermal filler. On information and belief, Perlane-L® is an injectable hyaluronic  
15 acid gel that includes lidocaine, and is indicated for the correction of moderate to  
16 severe facial folds and wrinkles.

17 28. As used hereinafter, the phrase "Accused Products" shall mean  
18 individually and collectively the Restylane-L® and Perlane-L® dermal filler  
19 products.

20 29. On information and belief, Defendants offer for sale, sell, and/or  
21 distribute the Accused Products in the United States, including within this district,  
22 and/or import the Accused Products into the United States.

23 30. On information and belief, Q-Med AB, a company organized in  
24 Sweden, manufactures the Accused Products in Sweden and sells the Accused  
25 Products to Defendants for ultimate distribution in the United States.

26 31. On information and belief, Q-Med AB was acquired in 2011 by  
27 Galderma S.A.

1 32. On information and belief, Defendants were aware of Allergan's  
2 JUVEDÉRM<sup>®</sup> products that practice the '475 and '795 patents. On information and  
3 belief, because Defendants were aware of Allergan's JUVEDÉRM<sup>®</sup> products,  
4 Defendants were also aware of the '475 and '795 patents as a result of patent  
5 marking, including marking on the website.

6 **COUNT I**

7 **(Infringement of the '475 Patent Under 35 U.S.C. § 271)**

8 33. Paragraphs 1 to 40 are incorporated herein as set forth above.

9 34. Defendants have been and are directly infringing the claims of the '475  
10 patent, literally and/or under the doctrine of equivalents, by offering to sell and/or  
11 selling within the United States, and/or importing into the United States, the  
12 Accused Products.

13 35. On information and belief, Defendants have induced and continue to  
14 induce infringement of the '475 patent by actively encouraging customers to use the  
15 Accused Products in the United States with knowledge that such use would infringe  
16 the '475 patent. On information and belief, those customers in fact infringed the  
17 '475 patent by using the Accused Products in the United States.

18 36. As a result of Defendants' infringement of the '475 patent, Allergan  
19 has suffered and will continue to suffer damage. Allergan is entitled to recover from  
20 Defendants the damages adequate to compensate for such infringement, which have  
21 yet to be determined.

22 37. Defendants' acts of infringement have caused and will continue to  
23 cause irreparable harm to Allergan unless and until enjoined by this Court.

24 **COUNT II**

25 **(Infringement of the '795 Patent Under 35 U.S.C. § 271)**

26 38. Paragraphs 1 to 45 are incorporated herein as set forth above.  
27  
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1 39. Defendants have been and are directly infringing the claims of the '795  
2 patent, literally and/or under the doctrine of equivalents, by offering to sell and/or  
3 selling within the United States, and/or importing into the United States, the  
4 Accused Products.

5 40. On information and belief, Defendants have induced and continue to  
6 induce infringement of the '795 patent by actively encouraging customers to use the  
7 Accused Products in the United States with knowledge that such use would infringe  
8 the '795 patent. On information and belief, those customers in fact infringed the  
9 '795 patent by using the Accused Products in the United States.

10 41. As a result of Defendants' infringement of the '795 patent, Allergan  
11 has suffered and will continue to suffer damage. Allergan is entitled to recover from  
12 Defendants the damages adequate to compensate for such infringement, which have  
13 yet to be determined.

14 42. Defendants' acts of infringement have caused and will continue to  
15 cause irreparable harm to Allergan unless and until enjoined by this Court.

16 **JURY TRIAL DEMAND**

17 Pursuant to Federal Rule of Civil Procedure 38(b), Allergan hereby demands  
18 a trial by jury on all issues so triable.

19 **PRAYER FOR RELIEF**

20 Allergan respectfully requests that this Court enter judgment and provide  
21 relief as follows:

- 22 a. That Defendants have directly infringed the '475 and '795 patents;  
23 b. That Defendants have induced infringement of the '475 and '795  
24 patents;  
25 c. That Defendants, and their respective officers, agents, servants,  
26 employees, attorneys, and all persons in active concert or participation with any of  
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1 them directly or indirectly, be permanently enjoined from infringing the '475 and  
2 '795 patents;

3 d. That Defendants pay to Allergan damages in amounts sufficient to  
4 compensate it for Defendants' infringement of the '475 and '795 patents, together  
5 with prejudgment and post judgment interest and costs, pursuant to 35 U.S.C. § 284;

6 e. That Defendants be ordered to account for additional damages for any  
7 and all periods of infringement not included in the damages awarded by the Court or  
8 jury, including specifically any time periods between any order or verdict awarding  
9 damages and entry of final judgment;

10 f. That this is an exceptional case under 35 U.S.C. § 285, and Allergan be  
11 awarded reasonable attorneys' fees and costs incurred in this action;

12 g. That Allergan be awarded such other equitable or legal relief as the  
13 Court may deem just and proper.

14  
15 Dated: November 18, 2014

FISH & RICHARDSON P.C.

16  
17 By: Lara S. Garner

Lara S. Garner (SBN 234701)

[lgarner@fr.com](mailto:lgarner@fr.com)

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20 Attorneys for Plaintiffs  
21 ALLERGAN USA, INC. and  
22 ALLERGAN INDUSTRIE, SAS  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on November 18, 2014 to all counsel of record who are deemed to have consented to electronic service via the Court’s CM/ECF system per Civ. L.R. 5-3.2.2. Any other counsel of record will be served by electronic mail.

/s/ Lara S. Garner  
Lara Garner (SBN 234701)  
[lgarner@fr.com](mailto:lgarner@fr.com)

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