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11 Attorneys for Plaintiff Zila Pharmaceuticals, Inc.

12
13 UNITED STATES DISTRICT COURT

14 DISTRICT OF ARIZONA

15 ZILA PHARMACEUTICALS, INC., a
Nevada corporation,

16 Plaintiff,

17 vs.

18 ADDENT, INC., a Connecticut corporation,

19 Defendant.
20
21
22

No.

COMPLAINT FOR:

**(1) DIRECT PATENT
INFRINGEMENT; AND**

**(2) INDUCING PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

23 For its complaint against defendant AdDent, Inc., plaintiff Zila Pharmaceuticals,
24 Inc. alleges as follows:

25 . . .

26 . . .

FIRST CLAIM FOR RELIEF

(Direct Patent Infringement,

in Violation of 35 U.S.C. § 271(a))

6. Plaintiff refers to and incorporates herein by reference paragraphs 1-5.

7. Defendant's acts complained of herein infringe the '718 Patent in violation of 35 U.S.C. § 271.

8. Defendant threatens to continue to engage in the acts complained of herein and, unless restrained and enjoined, will continue to do so, all to Plaintiff's irreparable damage. It would be difficult to ascertain the amount of compensation that would afford Plaintiff adequate relief for such future and continuing acts, and a multiplicity of judicial proceedings would be required. Plaintiff does not have an adequate remedy at law to compensate it for the injuries threatened.

9. By reason of the acts of Defendant alleged herein, Plaintiff has suffered damage in an amount to be proved at trial.

10. Plaintiff is informed and believes, and on that basis alleges, that AdDent's infringement is willful, wanton, and deliberate, without license and with full knowledge of the '718 Patent, thereby making this an exceptional case entitling Plaintiff to attorneys' fees and enhanced damages.

SECOND CLAIM FOR RELIEF

(Inducing Patent Infringement,

in Violation of 35 U.S.C. § 271(b))

11. Plaintiff refers to and incorporates herein by reference the allegations of paragraphs 1-10.

12. Plaintiff is informed and believes, and on that basis alleges, that Defendant has actively and knowingly induced the infringement of the '718 Patent, in violation of 35 U.S.C. § 271(b), by inducing others to sell, offer for sale, and/or use AdDent products,

1 including, but not limited to, AdDent's "Microlux/DL" product, that infringe the '718
2 Patent.

3 13. By reason of the acts of Defendant alleged herein, Plaintiff has suffered
4 damage in an amount to be proved at trial.

5 14. Defendant threatens to continue to engage in the acts complained of herein
6 and, unless restrained and enjoined, will continue to do so, all to Plaintiff's irreparable
7 damage. Plaintiff does not have an adequate remedy at law.

8 15. Plaintiff is informed and believes, and on that basis alleges, that Defendant's
9 infringement is willful, wanton, and deliberate, without license and with full knowledge of
10 the '718 Patent, thereby making this an exceptional case entitling Plaintiff to attorneys'
11 fees and enhanced damages.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for relief as follows:

14 A. For an order finding that the '718 Patent is valid and enforceable;

15 B. For an order finding that, by the acts complained of herein, Defendant has
16 directly and/or by inducement infringed the '718 Patent in violation of 35 U.S.C. § 271;

17 C. For an order temporarily, preliminarily and permanently enjoining
18 Defendant, its officers, agents, servants, and employees, and all persons acting in concert
19 or privity with any of them, from infringing the '718 Patent, from inducing others to
20 infringe the '718 Patent, and from contributing to any infringement of the '718 Patent,
21 including, without limitation, manufacturing, importing, selling, offering for sale and/or
22 using any products, including AdDent's "Microlux/DL" product, that incorporate the
23 invention claimed in the '718 Patent;

24 D. For an order directing Defendant to file with the Court, and serve upon
25 Plaintiff's counsel, within thirty (30) days after entry of the order of injunction, a report
26 setting forth the manner and form in which Defendant has complied with the injunction;

1 E. For an order awarding compensatory damages, including a reasonable
2 royalty and lost profits, and further for an order that Defendant's acts of infringement were
3 willful and wanton, thereby justifying an award of trebled and/or enhanced damages;

4 F. For an order awarding Plaintiff all of its costs, including its attorneys' fees,
5 incurred in prosecuting this action, including, without limitation, pursuant to 35 U.S.C. §
6 285 and other applicable law;

7 G. For an order awarding Plaintiff pre-judgment interest; and

8 H. For an order awarding Plaintiff such other and further relief as the Court
9 may deem just and proper.

10 RESPECTFULLY SUBMITTED this 3rd day of March, 2006.

11 STEPTOE & JOHNSON LLP

12
13 By /s/ P. Bruce Converse

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15 201 East Washington, Suite 1600
16 Phoenix, Arizona 85004

17 Attorneys for Plaintiff Zila Pharmaceuticals, Inc.
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as provided in Rule 38(a) of the Federal Rules of Civil Procedure.

RESPECTFULLY SUBMITTED this 3rd day of March, 2006.

STEPTOE & JOHNSON LLP

By /s/ P. Bruce Converse

P. Bruce Converse
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Attorneys for Plaintiff Zila Pharmaceuticals, Inc.