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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DUSA PHARMACEUTICALS, INC., a
New Jersey corporation; and
QUEEN'S UNIVERSITY AT
KINGSTON, a Canadian academic
Organization,

Plaintiffs,

v.

DIANNE QUIBELL, M.D.,
a Massachusetts resident, and
PREMIER MEDICAL ASSOCIATES,
a Massachusetts professional corporation,

Defendants.

U.S. DISTRICT COURT
DISTRICT OF MASS.
Civil Action No.

COMPLAINT

JURY TRIAL DEMANDED

06 CA 10122 MEL

MAGISTRATE JUDGE *Serokin*

COMPLAINT

Plaintiffs DUSA Pharmaceuticals, Inc.[®] ("DUSA[®]") and Queen's University at Kingston ("Queen's University") (collectively "Plaintiffs"), through their counsel, hereby allege the following for their Complaint against Dianne Quibell, M.D. ("Dr. Quibell") and Premier Medical Associates (collectively "Defendants"):

JURISDICTION AND PARTIES

1. This is a civil action for patent infringement of United States Patent Nos. 6,710,066 ("the '066 patent") and 5,955,490 ("the '490 patent") under 35 U.S.C. § 271(a).
2. This Court has jurisdiction under 28 U.S.C. § 1331 and § 1338(a).
3. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and §1400(b).
4. DUSA[®] is a corporation organized under the laws of the State of New Jersey having its principal place of business at 25 Upton Drive, Wilmington, MA 01887.

5. Queen's University is a public university registered in the province of Ontario and located in Kingston, Ontario, Canada.

6. Plaintiffs are informed and believe that Premier Medical Associates is a Massachusetts professional corporation that is a medical practice located at 422 Worcester Street, Suite 105, Wellesley Hills, Massachusetts 02481.

7. Plaintiffs are informed and believe that Dr. Quibell is a citizen of Massachusetts.

8. Plaintiffs are informed and believe that Dr. Quibell is formerly, currently, or otherwise known as Dianne Q. Frustaci.

9. Plaintiffs are informed and believe that Dr. Quibell practices medicine in concert with Premier Medical Associates at 422 Worcester Street, Suite 105, Wellesley Hills, Massachusetts 02481.

10. Plaintiffs are informed and believe that Dr. Quibell, in concert with Premier Medical Associates, commits acts of infringement of the '066 patent and the '490 patent within this Commonwealth and Judicial District. A substantial part of the events giving rise to the claim occurred in this Judicial District and Division.

COUNT I
(Infringement Of United States Patent No. 6,710,066)

11. Plaintiffs repeat and re-allege each and every allegation in the foregoing paragraphs as though fully set forth herein.

12. The '066 patent, entitled "Photochemotherapeutic Method Using 5-Aminolevulinic Acid and Other Precursors of Endogenous Porphyrins," was duly and lawfully granted on March 23, 2004, by the United States Patent and Trademark Office. The '066 patent is owned by Queen's University and is exclusively licensed to DUSA[®]. See Exhibit A.

13. DUSA[®], under its license from Queen's University, manufactures, offers for sale, and sells pharmaceutical compositions containing aminolevulinic acid under the trademark,

LEVULAN[®], for use in the treatment of actinic keratosis, a nonmalignant hyperproliferative skin lesions, as covered by the '066 patent.

14. Upon information and belief, Dr. Quibell, in concert with Premier Medical Associates, uses aminolevulinic acid containing drug products to treat her patients for actinic keratosis, and thereby infringes the '066 patent under 35 U.S.C. § 271(a).

15. Defendants' infringement of the '066 patent is knowing, willful, and wanton under 35 U.S.C. § 284 and make this an exceptional case under 35 U.S.C. § 285.

COUNT II
(Infringement Of United States Patent No. 5,955,490)

16. Plaintiffs repeat and re-allege each and every allegation in the foregoing paragraphs as though fully set forth herein.

17. The '490 patent, entitled "Photochemotherapeutic Method Using 5-Aminolevulinic Acid and Other Precursors of Endogenous Porphyrins," was duly and lawfully granted on September 21, 1999, by the United States Patent and Trademark Office. The '490 patent is owned by Queen's University and is exclusively licensed to DUSA[®]. See Exhibit B.

18. Upon information and belief, Dr. Quibell, in concert with Premier Medical Associates, uses aminolevulinic acid containing drug products to treat her patients for acne, and thereby infringes the '490 patent under 35 U.S.C. § 271(a).

19. Defendants' infringement of the '490 patent is knowing, willful and wanton under 35 U.S.C. § 284 and make this an exceptional case under 35 U.S.C. § 285.

WHEREFORE, Plaintiffs pray that:

a. Defendants be preliminarily and permanently enjoined from infringing United States Patent No. 6,710,066;

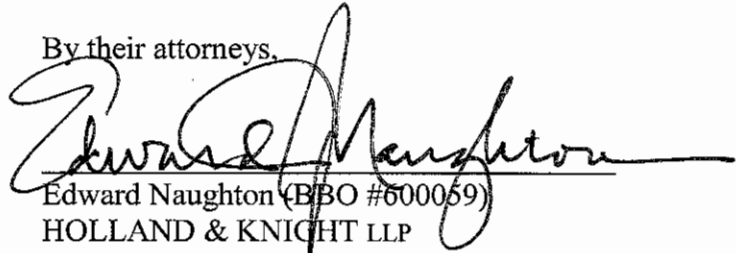
b. Defendants be preliminarily and permanently enjoined from infringing United States Patent No. 5,955,490;

- c. Defendants be ordered to pay compensatory damages as a result of their infringement of United States Patent No. 6,710,066, including all damages suffered by Plaintiffs as a result of the infringement, increased by three times for willful behavior;
- d. Defendants be ordered to pay compensatory damages as a result of their infringement of United States Patent No. 5,955,490, including all damages suffered by Plaintiffs as a result of the infringement, increased by three times for willful behavior;
- e. Plaintiffs be awarded their costs of this action including reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and
- f. Plaintiffs be awarded such other further relief as the Court shall deem appropriate.

Respectfully submitted,

DUSA PHARMACEUTICALS, INC. and
QUEEN'S UNIVERSITY AT KINGSTON

By their attorneys,



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Dated: January 20, 2006