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11 Attorneys for Plaintiff Medicis Pharmaceutical Corporation

12
13 UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

14
15 MEDICIS PHARMACEUTICAL
16 CORPORATION,

17 Plaintiff,

18 v.

19 UPSHER-SMITH LABORATORIES,
20 INC.; PRASCO, LLC (d/b/a Prasco
Laboratories),

21 Defendants.

No.

**COMPLAINT FOR PATENT
INFRINGEMENT AND JURY
TRIAL**

22
23 Plaintiff Medicis Pharmaceutical Corporation (“Medicis”) alleges:

24 **JURISDICTION AND VENUE**

25 1. This is an action for patent infringement arising under the patent laws
26 of the United States, 35 U.S.C. Sections 1 *et seq.* This Court has jurisdiction over this
27 action under 28 U.S.C. Sections 1331 and 1338(a).
28

1 products, including, but not limited to, the Prascion™ Cleanser (“Prascion™”) product, in
2 this District and elsewhere.

3 13. The Defendants’ acts of infringement will continue unless enjoined
4 by this Court.

5 14. The Defendants’ acts of infringement have caused, and will continue
6 to cause Medicis substantial and irreparable injury for which Medicis is entitled to
7 injunctive relief and damages to compensate Medicis for such infringement.

8 15. The Defendants’ acts of infringement have been willful and
9 deliberate rendering this case “exceptional” under 35 U.S.C. Section 285.

10 WHEREFORE, Medicis prays for relief as set forth below.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Medicis prays the Court for the following relief:

- 13 1. A Judgment that Upsher-Smith has infringed the ‘675 Patent.
- 14 2. A Judgment that Prasco has infringed the ‘675 Patent.
- 15 3. A Judgment that infringement of the ‘675 Patent by Upsher-Smith
16 has been willful.
- 17 4. A Judgment that infringement of the ‘675 Patent by Prasco has been
18 willful.
- 19 5. An award of damages, including treble damages pursuant to 35
20 U.S.C. Section 284, arising out of Upsher-Smith’s acts of willful infringement and active
21 inducement of infringement of the ‘675 Patent.
- 22 6. An award of damages, including treble damages pursuant to 35
23 U.S.C. Section 284, arising out of Prasco’s acts of willful infringement and active
24 inducement of infringement of the ‘675 Patent.
- 25 7. That the Court preliminarily and permanently enjoin the Defendants,
26 their officers, directors, principals, agents, servants, employees, successors and assigns,
27 and all those in active concert or participation with them, or under their authority, jointly
28

1 and severally, from making, using, offering for sale, and/or selling infringing products,
2 including but not limited to CleniaTM and PrascionTM, and from otherwise infringing,
3 contributing to the infringement of, or actively inducing infringement of, the '675 Patent.

4 8. That the Court order and decree, pursuant to 35 U.S.C. Section 285,
5 that this is an exceptional case entitling Medicis to an award of its reasonable attorneys'
6 fees and costs.

7 9. That the Court order an award of pre-judgment and post-judgment
8 interest on the above damage awards.

9 10. That Medicis be awarded such other and further relief as the Court
10 may deem just and proper.

11 Dated: October 27, 2005

12 SNELL & WILMER L.L.P.

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17 -and-

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Attorneys for Plaintiff Medicis Pharmaceutical Corporation

JURY DEMAND

1
2 Plaintiff Medicis Pharmaceutical Corporation hereby demands a jury trial on all
3 issues so triable.

4 Dated: October 27, 2005

Respectfully submitted,

5 SNELL & WILMER L.L.P.

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