# © JS 44 (Rev. 3/99) Case 3:02-cv-02024-K DOTWIND TO VIII R JS 1/12 Page 1 of 5 Page 1 D

The JS-44 civil cover sheet and the information c. Lined herein neither replace nor supplement the fili. And service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Adams Laboratories, Inc.				DEFENDANTS Pharma Fab, Inc., United Research Laboratories, Inc., and Mutual Pharmaceutical Company, Inc.			
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(c) Attorney's (Firm Name, Address, and Telephone Number) Bruce S. Sostek				Attorneys (If Know	rn)		
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Richard L. Wynne, Jr. Thompson & Knight, L.L.P.					_		# D
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☐ 130 Miller Act ☐ 140 Negotiable Instrument	☐ 315 Airplane Product Liability	Med. Malpractice  ☐ 365 Personal Injury –		5 Drug Related Seizure of Property 21 USC 881	☐ 423 Withdrawal 28 USC 157		☐ 430 Banks and Banking ☐ 450 Commerce/ICC Rates/etc.
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 320 Assault, Libel &	Product Liability  368 Asbestos Persona	□ 63	0 Liquor Laws 0 R.R & Truck	PROPERTY R	GHTS	☐ 460 Deportation
☐ 151 Medicare Act	330 Federal Employers'	Injury Product		0 Airline Regs.	☐ 820 Copyrights		☐ 470 Racketeer Influenced and Corrupt Organizations
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☐ 160 Stockholders' Suits ☐ 190 Other Contract	☐ 355 Motor Vehicle Product Liability	Property Damage  385 Property Damage		0 Fair Labor Standards	□ 861 HIA (1395ff)		☐ 891 Agricultural Acts ☐ 892 Economic Stabilization Act
☐ 195 Contract Product Liability	☐ 360 Other Personal Injury	Product Liability		Act 0 Labor/Mgmt. Relations	☐ 862 Black Lung (9☐ 863 DIWC/DIWV		☐ 893 Environmental Matters
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☐ 290 All Other Real Property	440 Other Civil Rights	540 Mandamus & Ot	her 79	l Empl. Ret. Inc.	☐ 871 IRS—Third P: 26 USC 7609		State Statutes  □ 890 Other Statutory Actions
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VI. CAUSE OF ACTION	Do not cite jurisdictiona	te under which you are filial statutes unless diversity.	)				11 71:
Plaintiffs assert claims against VII. REQUESTED IN COMPLAINT:		S IS A CLASS ACTION		MAND \$ Unspecified	CHECK		if demanded in complaint:
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SEP 1 9 2002

ADAMS LABORATORIES, INC.,

Plaintiff,

vs.

PHARMAFAB, INC., UNITED RESEARCH LABORATORIES, INC., and MUTUAL PHARMACEUTICAL COMPANY, INC.,

Defendants.

CLERK, U.S. LISTRIC I COURT

By \_\_\_\_\_\_

Deputy

CIVIL ACTION NO.

3 02CV-2024P

# ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

For its complaint against Defendants PharmaFab, Inc. ("PharmaFab"), United Research Laboratories, Inc. ("URL"), and Mutual Pharmaceutical Company, Inc. ("Mutual"), (collectively, "Defendants"), Plaintiff Adams Laboratories, Inc. ("Adams") alleges as follows:

#### **PARTIES**

- 1. Adams is a corporation organized according to the laws of Texas with its principal place of business at 14801 Sovereign Road, Fort Worth, Texas 76155.
- 2. PharmaFab is a corporation organized according to the laws of Texas with its principal place of business at 2940 North Highway 360, Suite 100, Grand Prairie, Texas 75050.
- 3. URL is a corporation organized according to the laws of Pennsylvania with its principal place of business at 1100 Orthodox Street, Philadelphia, Pennsylvania 19124.
- 4. Mutual is a corporation organized according to the laws of Pennsylvania with its principal place of business at 1100 Orthodox Street, Philadelphia, Pennsylvania 19124.

## **JURISDICTION AND VENUE**

- 5. This is an action for patent infringement under 35 U.S.C. § 271. The Court has subject-matter jurisdiction over the action under 28 U.S.C. §§ 1331 and 1338(a).
- 6. Defendants regularly conduct business in this judicial district. They have offered to sell, have sold, and sell infringing products in this district. In addition, Defendant PharmaFab has also made and continues to make infringing products in this district. All Defendants are subject to personal jurisdiction in the State of Texas and in this judicial district.
- 7. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to Plaintiff's claims occurred in this judicial district and/or because, under 28 U.S.C. § 1391(c), all Defendants are deemed to reside in the State of Texas.

#### BACKGROUND

- 8. Plaintiff Adams owns the exclusive right and license of United States Patent No. 6,270,796 B1 ("the '796 patent"), which issued on August 7, 2001 to J–Med Pharmaceuticals, Inc., ("J–Med"). The '796 patent is directed to antihistamine/decongestant regimens for treating rhinitis. A copy of the '796 patent is attached hereto as Exhibit A.
- 9. Plaintiff Adams owns the exclusive right to manufacture, package, market, distribute, use, sell, and to otherwise exploit products covered by the '796 patent by virtue of a written agreement with J–Med. Adams makes and sells products covered by the '796 patent in the form of its prescription medication sold under the brand AlleRx™ Dose Pack.
- 10. Defendants have undertaken to market and sell generic products intended to emulate Adams's successful AlleRx™ Dose Pack products. Defendants' generic products fall within the scope of one or more claims of the '796 patent and are being made, offered for sale, sold, and used without authority, permission, or license from Plaintiff.

#### CLAIM FOR RELIEF — PATENT INFRINGEMENT

- 11. Plaintiff realleges and incorporates by reference the allegations of paragraphs 1 through 10 above as if set forth fully herein.
- 12. On information and belief, during the term of the '796 patent and without authority from Plaintiff, each of the Defendants has made, used, offered to sell, and/or sold within the United States certain products that infringe one or more claims of the '796 patent.
- 13. On information and belief, during the term of the '796 patent and without authority from Plaintiff, each of the Defendants has actively induced others to directly infringe one or more claims of the '796 patent.
- 14. Plaintiff has been damaged by Defendants' infringement in an amount to be determined at trial. Because of Defendants' infringement, Plaintiff has been irreparably harmed and has suffered impairment of the value of its patent rights. Moreover, Plaintiff will continue to suffer irreparable harm unless Defendants are restrained from infringing the claims of the '796 patent.

### **DEMAND FOR JURY TRIAL**

Under Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial in this action.

# PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that the Court enter judgment, as follows:

A. That all Defendants and their respective officers, agents, affiliates, servants, employees, and attorneys, and all other persons acting in active concert or participation with them, be temporarily, preliminarily, and permanently enjoined from infringing, or inducing infringement of, the '796 patent by importing, making, using, offering to sell, or selling products that embody the inventions claimed in the patent, or colorable imitations thereof;

- B. That Plaintiff be awarded under 35 U.S.C. § 284, in an amount to be proven at trial, damages adequate to compensate it for Defendants' infringement of the '796 patent;
- C. That Plaintiff be awarded its costs and prejudgment interest on its damages as provided for by 35 U.S.C. § 284;
- D. That the Court determine this to be an exceptional case and award Plaintiff its reasonable attorneys' fees, as provided for by 35 U.S.C. § 285;
- E. That each and every Defendant be ordered to make a written report within a reasonable period, to be filed with the Court, detailing the manner of their compliance with the requested injunction; and
- F. That Plaintiff be granted such other and further relief as the Court determines is just and proper.

Dated: September 18, 2002.

Respectfully submitted,

Bruce S. Sostek

State Bar No. 18855700

Jane Politz Brandt

State Bar No. 02882090

Richard L. Wynne, Jr.

State Bar No. 24003214

THOMPSON & KNIGHT L.L.P. 1700 Pacific Avenue, Suite 3300 Dallas, Texas 75201 214.969.1700 214.969.1751 (facsimile)

ATTORNEYS FOR PLAINTIFF

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