

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

<p>PHARMA CHEMIE INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>FOODSCIENCE CORPORATION, VETRI- SCIENCE LABORATORIES OF VERMONT, DOM ORLANDI, JR., and CLAUDIA ORLANDI,</p> <p>Defendants.</p>	<p>CASE NO. 4:09-cv-00513-JAJ-CFB</p> <p>Jury Trial Demanded</p>
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AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Pharma Chemie Inc. ("Pharma Chemie") files this Original Complaint for Patent Infringement.

PARTIES

1. Plaintiff Pharma Chemie is a Nebraska corporation with its principal place of business at 1877 Midland Street, Syracuse, Nebraska, 68446.

2. Upon information and belief, Defendant FoodScience Corporation is a Vermont corporation, with its principal place of business at 20 New England Drive, Essex Junction, Vermont 05453.

3. Upon information and belief, Defendant Vetri-Science Laboratories of Vermont is a division of Defendant FoodScience Corporation, with its principal place of business at 20 New England Drive, Essex Junction, Vermont 05453.

4. Upon information and belief, Defendant Dom Orlandi, Jr. is President of Defendant FoodScience Corporation and Defendant Vetri-Science Laboratories of Vermont.

5. Upon information and belief, Defendant Claudia Orlandi is Vice President of Defendant FoodScience Corporation and Defendant Vetri-Science Laboratories of Vermont.

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285. This Court has subject matter jurisdiction over this action based on 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants by virtue of the fact Defendants conduct business in the State of Iowa, have availed themselves of the rights and benefits of Iowa law, and have engaged in substantial and continuing contacts with the State.

8. To the extent that Defendants successfully contend they are not doing business in the State of Iowa, jurisdiction over Defendants in Iowa is also proper under Federal Rule of Civil Procedure 4(k)(2).

9. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

COUNT I
CLAIM FOR INFRINGEMENT OF THE '965 PATENT

10. U.S. Patent No. 7,025,965 (“the ‘965 patent”) entitled “Method of Use and Dosage Composition of Bluegreen Algae Extract for Inflammation in Animals” lawfully issued by the United States Patent and Trademark Office on April 11, 2006. A copy of the ‘965 patent is attached as Exhibit A.

11. Pharma Chemie owns the entire right, title and interest in the ‘965 patent.

12. The ‘965 patent claims, among other things, a method of treating inflammation and pain in non-human animals by administering a composition that includes about 0.23-6.80 mg/kg/day of phycocyanin.

13. Upon information and belief, Defendant Vetri-Science, as a division of Defendant FoodScience Corporation, has been distributing and selling veterinary compositions containing phycocyanin under the trade name “CX Solution” (hereinafter “Defendants’ products”). Upon information and belief, CX Solution products are primarily marketed by Defendants to consumers and veterinarians as a treatment of pain and inflammation in animals.

14. Upon information and belief, Defendants Dom Orlandi, Jr. and Claudia Orlandi directed and/or ordered the manufacture of Defendants' products. Additionally or alternatively, Defendants Dom Orlandi, Jr. and Claudia Orlandi have controlled the sale and distribution of Defendants' products.

15. According to Defendants’ product literature (attached as Exhibit B), Defendants’ “CX Solution” chew composition provides 60 mg of a source of phycocyanin, namely blue-green algae extract, to a 60 pound (about 27 kg) dog each day, resulting in a dose of phycocyanin in the animal within the range of about 0.23-6.80 mg/kg/day.

16. Furthermore, according to Defendants' product literature (Exhibit B), Defendants' "CX Solution Mini" chew composition provides 30 mg of a source of phycocyanin, namely blue-green algae extract, to a 30 pound (about 14 kg) dog each day, resulting in a dose of phycocyanin in the animal within the range of about 0.23-6.80 mg/kg/day.

17. The consumers and veterinarians that purchase Defendants' products directly infringe the '965 Patent by administering Defendants' products to animals for treatment of pain and inflammation in animals.

18. Defendants have contributorily infringed and/or actively induced others to infringe and continue to contributorily and/or induce others to infringe the '965 Patent in this District and elsewhere in the United States by their manufacture, importation, sale, offering for sale, and/or use of the claimed method and composition of the '965 Patent without authority, permission, or license of Pharma Chemie.

19. Defendants' acts have caused, and unless restrained and enjoined, will continue to cause, irreparable injury and damage to Plaintiff and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, Defendants will continue to infringe the '965 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

20. Judgment that Defendants have infringed one or more claims of the '965 Patent;

21. A preliminary and permanent injunction issued restraining and enjoining Defendants, their officers, agents, attorneys, and employees, and those acting in privity or concert with them, and their successors and assigns, from engaging in the commercial

manufacture, use, offer to sell, or sale within the United States, or importation into the United States, any product or service falling within the scope of any claim of the '965 patent, or otherwise infringing or contributing to or inducing infringement of any claim of the '965 patent;

22. An award of Plaintiff's actual damages;

23. An award to Plaintiff of pre-judgment interest and post-judgment interest at the maximum rate allowed by law;

24. An order by the Court for an accounting for damages;

25. A declaration by the Court that this is an exceptional case pursuant to 35 U.S.C. § 284;

26. A declaration by the Court that the '965 Patent is valid and enforceable;

27. An award to Plaintiff of its attorneys' fees and costs of court; and

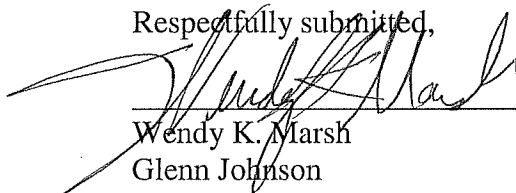
28. Such other and further relief as the Court deems just and proper.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable of right by a jury.

DATED: April 9, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wendy K. Marsh", is written over a horizontal line.

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