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Attorneys For Plaintiffs
AstraZeneca Pharmaceuticals LP and
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ASTRAZENECA PHARMACEUTICALS LP and ASTRAZENECA UK LIMITED, Plaintiffs, v. INTELLIPHARMACEUTICS CORPORATION and INTELLIPHARMACEUTICS INTERNATIONAL INC., Defendants.	Civil Action No. 11-02973 (JAP)(TJB)

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs AstraZeneca Pharmaceuticals LP and AstraZeneca UK Limited (collectively, "AstraZeneca"), for their complaint against Defendants IntelliPharmaCeutics Corporation ("IPC Corp.") and IntelliPharmaCeutics International Inc. ("IPC Int'l") (collectively, "IPC"), hereby allege as follows:

THE PARTIES

1. Plaintiff AstraZeneca Pharmaceuticals LP is a limited partnership organized under the laws of Delaware, having its principal place of business at 1800 Concord Pike, Wilmington, Delaware 19803.

2. Plaintiff AstraZeneca UK Limited is a company incorporated under the Laws of England and Wales, having a registered office at 2 Kingdom Street, London, England W2 6BD.

3. On information and belief, IPC Corp. is a corporation organized and existing under the laws of Canada, having a place of business at 30 Worcester Road, Toronto, Ontario, Canada M9W 5X2. IPC Corp. is in the business of, among other things, manufacturing and marketing generic copies of branded pharmaceutical products throughout the United States including in this District.

4. On information and belief, IPC Int'l is a corporation organized and existing under the laws of Canada, having a place of business at 30 Worcester Road, Toronto, Ontario, Canada M9W 5X2. IPC Int'l is in the business of, among other things, manufacturing and marketing generic copies of branded pharmaceutical products throughout the United States including in this District.

5. On information and belief, IPC Corp. is a wholly-owned subsidiary of IPC Int'l, and is in the business of marketing and selling generic drugs throughout the United States; IPC Int'l and IPC Corp. both operate as a single, integrated business; both companies share a website, www.intellipharmaceutics.com; IPC Int'l has released press statements regarding the status of IPC Corp.'s ANDA No. 202-939; and the companies collaborate in the manufacture,

marketing, and sale of pharmaceutical products, including generic drug products manufactured and sold throughout the United States pursuant to approved abbreviated new drug applications.

JURISDICTION AND VENUE

6. This action arises under the Patent Laws of the United States and the Food and Drug Laws of the United States, Titles 35 and 21, United States Code. Jurisdiction is based on 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this Court under 28 U.S.C. §§ 1391(c), 1391(d), and 1400(b).

7. This Court has personal jurisdiction over IPC Corp. because IPC Corp. has purposely availed itself of the benefits and protections of the laws of New Jersey such that it should reasonably anticipate being haled into court here. In addition, on information and belief, IPC Corp. has had continuous and systematic contacts with this judicial district, including, selling pharmaceutical products in New Jersey and deriving substantial revenues from those sales. In fact, IPC Corp. has consented to personal jurisdiction in this Court in two other litigations, Civil Action Nos. 07-cv-4854 (FLW)(TJB) and 11-cv-1736 (SDW)(MCA). Thus, IPC Corp. is subject to general jurisdiction in New Jersey.

8. This Court has personal jurisdiction over IPC Int'l because IPC Int'l has purposely availed itself of the benefits and protections of the laws of New Jersey such that it should reasonably anticipate being haled into court here. In addition, on information and belief, IPC Int'l has had continuous and systematic contacts with this judicial district, including, selling pharmaceutical products in New Jersey and deriving substantial revenues from those sales. Thus, IPC Int'l is subject to general jurisdiction in New Jersey.

9. AstraZeneca has brought the following actions in the United States District Court for the District of New Jersey: *AstraZeneca Pharms. LP and AstraZeneca UK*

Ltd. v. Handa Pharms., LLC and John Doe Entity, Civil Action Nos. 08-cv-3773 (JAP) (TJB), 08-cv-5328 (JAP) (TJB) and 08-cv-5997 (JAP) (TJB) ("the Handa actions"); *AstraZeneca Pharms. LP and AstraZeneca UK Ltd. v. Accord Healthcare, Inc. and Intas Pharms., Ltd*, Civil Action Nos. 08-cv-4804 (JAP) (TJB) and 09-cv-0619 (JAP) (TJB) ("the Accord actions"); *AstraZeneca Pharms. LP and AstraZeneca UK Ltd. v. Anchen Pharmaceuticals Inc.*, Civil Action No. 10-cv-1835 (JAP) (TJB) ("the Anchen action"); *AstraZeneca Pharms. LP and AstraZeneca UK Ltd. v. Osmotica Pharmaceutical Corp.*, Civil Action No. 10-cv-4203 (JAP) (TJB) and 11-cv-2484 (JAP)(TJB) ("the Osmotica actions"); *AstraZeneca Pharms. LP and AstraZeneca UK Ltd. v. Torrent Pharmaceuticals Ltd. and Torrent Pharma Inc.*, Civil Action Nos. 10-cv-4205 (JAP) (TJB) and 10-cv-4971 (JAP) (TJB) ("the Torrent actions"); and *AstraZeneca Pharms. LP and AstraZeneca UK Ltd. v. Mylan Pharmaceuticals Inc. and Mylan Inc.*, Civil Action No. 10-cv-5519 (JAP) (TJB) and 11-cv-2483 (JAP)(TJB) ("the Mylan actions") (collectively, "the pending actions"). All of the pending actions involve a claim by AstraZeneca of infringement of AstraZeneca's United States Patent No. 5,948,437 ("the '437 patent"), the same patent that is involved in the present action. All of the pending actions are still currently pending in this Court before the Honorable Joel A. Pisano and Magistrate Judge Tonianne J. Bongiovanni. All pretrial proceedings in the pending actions are being coordinated, and a consolidated trial is now scheduled to begin on October 3, 2011. The present action should be coordinated and consolidated for trial with the pending actions.

CLAIMS FOR RELIEF

Count 1: Infringement By IPC Corp.

10. AstraZeneca realleges paragraphs 1-9 above as if set forth specifically herein.

11. Plaintiff AstraZeneca Pharmaceuticals LP is the holder of New Drug Application ("NDA") No. 22-047, by which the FDA first granted approval for 50 mg, 150 mg, 200 mg, 300 mg and 400 mg extended release tablets containing the active ingredient quetiapine (11-[4-[2-(2-hydroxyethoxy)ethyl]-1-piperazinyl] dibenzo [b,f][1,4] thiazepine) fumarate. The quetiapine fumarate extended release tablets described in NDA No. 22-047 are sold by AstraZeneca in the United States under the trademark SEROQUEL XR®.

12. Plaintiff AstraZeneca UK Limited is the owner of the '437 patent, entitled "Pharmaceutical Compositions Using Thiazepine," which was duly and legally issued by the United States Patent and Trademark Office on September 7, 1999 upon assignment from the inventors Bhavnish V. Parikh, Robert J. Timko and William J. Addicks. A copy of the '437 patent is attached an Exhibit A. The '437 patent claims, *inter alia*, sustained release formulations of quetiapine fumarate, including SEROQUEL XR® extended release tablets, and processes for preparing and using such formulations.

13. The '437 patent will expire on May 28, 2017.

14. By letter dated May 18, 2011 purporting to be a notice pursuant to 21 U.S.C. § 355 (j)(2)(B) (the "Notice Letter"), IPC Corp. notified AstraZeneca that IPC Corp. had submitted ANDA No. 202-939 to the U.S. Food and Drug Administration ("FDA") seeking the approval of the FDA to commercially manufacture, market, use and sell, prior to the expiration of the '437 patents, quetiapine fumarate extended release tablets in 150 mg, 200 mg, 300 mg and 400 mg strengths as generic versions of AstraZeneca's SEROQUEL XR® 150 mg, 200 mg, 300 mg and 400 mg extended release tablets.

15. In the Notice Letter, IPC Corp. alleged that certain claims of the '437 patent will not be infringed by its proposed generic quetiapine fumarate extended release tablets.

IPC Corp. did not allege in the Notice Letter that its proposed generic quetiapine fumarate extended release tablets will not infringe claims 1-2, 10 and 13-14 of the ’437 patent.

16. IPC Corp. also alleged in the Notice Letter that the claims of the ’437 patent are invalid for obviousness under 35 U.S.C. § 103(a) and for failure to meet the enablement requirement of 35 U.S.C. § 112, first paragraph.

17. IPC Corp. also alleged in the Notice Letter that the ‘437 patent is unenforceable in view of inequitable conduct during the prosecution of the application which issued as the ‘437 patent.

18. IPC Corp. has infringed the ’437 patent under 35 U.S.C. § 271(e)(2)(A) by filing ANDA No. 202-939 seeking approval from the FDA to engage in the commercial manufacture, use or sale of a drug claimed in the ’437 patent, or the use of which is claimed in the ’437 patent, prior to the expiration of that patent.

19. The quetiapine fumarate extended release tablets for which IPC Corp. seeks approval under ANDA No. 202-939 will infringe one or more claims of the ’437 patent under 35 U.S.C. §271(a).

20. The commercial manufacture, use, sale or offer for sale within the United States, or the importation into the United States, of IPC Corp.’s quetiapine fumarate extended release tablets will directly or indirectly infringe one or more claims of the ’437 patent under 35 U.S.C. § 271(a), (b) or (c).

21. AstraZeneca is entitled to full relief provided by 35 U.S.C. § 271(e)(4), including an order of this Court that the effective date of the approval of ANDA No. 202-939 be a date that is not earlier than the later of May 28, 2017, the expiration date of the ’437 patent, or the expiration of any other exclusivity to which AstraZeneca is or becomes entitled.

Count 2: Infringement By IPC Int'l

22. AstraZeneca realleges paragraphs 1-21 above as if set forth specifically herein.

23. On information and belief, IPC Int'l initiates, directs and controls the activities of IPC Corp. with regard to ANDA No. 202-939 and the quetiapine fumarate extended release tablets described therein.

24. On information and belief, IPC Int'l, through IPC Corp. as its agent, initiated, directed and controlled the preparation and filing of ANDA No. 202-939 with the FDA.

25. On information and belief, IPC Int'l has infringed the '437 patent under 35 U.S.C. § 271(e)(2)(A) by initiating, directing and controlling the preparation of ANDA No. 202-939.

26. On information and belief, in the event that the FDA approves ANDA No. 202-939, IPC Int'l stands to benefit directly from such approval by being able to commercially manufacture and distribute the quetiapine fumarate extended release tablets that are the subject of the ANDA.

27. The quetiapine fumarate extended release products for which IPC Int'l, through IPC Corp. as its agent, seeks approval under ANDA No. 202-939 will infringe one or more claims of the '437 patent under 35 U.S.C. § 271(a).

28. The commercial manufacture, use, sale or offer for sale within the United States, or the importation into the United States, by IPC Int'l of the quetiapine fumarate extended release tablets that are the subject of ANDA No. 202-939 will infringe of or more claims of the '437 patent under 35 U.S.C. § 271(a).

29. The commercial manufacture, use, sale or offer for sale within the United States, or the importation into the United States, of IPC Int'l's quetiapine fumarate extended release tablets will directly or indirectly infringe one or more claims of the '437 patent under 35 U.S.C. § 271(a), (b) or (c).

30. AstraZeneca is entitled to full relief provided by 35 U.S.C. § 271(e)(4), including an order of this Court that the effective date of the approval of ANDA No. 202-939 be a date that is not earlier than the later of May 28, 2017, the expiration date of the '437 patent, or the expiration of any other exclusivity to which AstraZeneca is or becomes entitled.

Count 3: Exceptional Case

31. AstraZeneca realleges paragraphs 1-30 as if set forth specifically herein.

32. Prior to filing ANDA No. 202-939, Defendants were aware of the existence of the '437 patent, and, upon information and belief, were aware that the filing of ANDA No. 202-939, including a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) ("Paragraph IV") with respect to the '437 patent, infringed that patent.

33. The opinions set forth in the Notice Letter that the '437 patent is invalid are devoid of an objective, good faith basis in either the facts or the law.

34. This case is an exceptional one, and AstraZeneca is entitled to an award of its reasonable attorney fees under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

(a) A judgment declaring that the '437 patent remains valid and enforceable, and that this patent has been infringed by Defendants;

(b) A judgment declaring that the effective date of any approval of ANDA No. 202-939 under Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355(j)) be a date that is not earlier than the later of May 28, 2017, the expiration date of the '437 patent, or the expiration of any other exclusivity to which AstraZeneca is or becomes entitled;

(c) A permanent injunction against any infringement of the '437 patent by Defendants, their officers, agents, attorneys, and employees, and those acting in privity or concert with them;

(d) A judgment that this is an exceptional case, and that Plaintiffs are entitled to an award of its reasonable attorney fees pursuant to 35 U.S.C. § 285;

(e) To the extent that Defendants have committed any acts with respect to the subject matter claimed in the '437 patent, other than those acts expressly exempted by 35 U.S.C. § 271(e)(1), an award of damages for such acts, which this Court should treble pursuant to 35 U.S.C. § 284;

(f) Costs and expenses in this action; and

(g) Such other relief as this Court may deem proper.

Dated: June 30, 2011

Respectfully submitted,

By: /s/ John E. Flaherty

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CERTIFICATION PURSUANT TO L. CIV. R. 11.2

Plaintiffs, by their undersigned counsel, hereby certify pursuant to L. Civ. R. 11.2 that the matters in controversy are not the subject of any other action pending in any other court or of any pending arbitration or administrative proceeding, with the exception of the related lawsuits identified in Paragraph 9 of this Complaint involving different defendants but the same patent-in-suit.

Dated: June 30, 2011

Respectfully submitted,

By: /s/ John E. Flaherty

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