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15 Attorneys for Plaintiff Medicis Pharmaceutical Corp.

17 **IN THE UNITED STATES DISTRICT COURT**

18 **FOR THE DISTRICT OF ARIZONA**

19 MEDICIS PHARMACEUTICAL
20 CORPORATION,

Cause No. 2:09-cv-2498-PHX

21 Plaintiff,

**COMPLAINT FOR
PATENT INFRINGEMENT
AND JURY TRIAL**

22 v.

23 PADDOCK LABORATORIES INC.,

24 Defendant.

25
26 **COMPLAINT**

27
28 Medicis Pharmaceutical Corporation (“Medicis” or “Plaintiff”) alleges:

1 **Parties**

2 1. Medicis is a Delaware corporation with its principal place of business in
3 Scottsdale, Arizona. Medicis is the leading independent specialty pharmaceutical
4 company in the United States, focusing primarily on the treatment of dermatological and
5 podiatric conditions and aesthetics medicine. Medicis has developed and commercialized
6 leading branded prescription products in a number of therapeutic categories. Because of
7 their clinical effectiveness and high quality, Medicis' products have earned wide
8 acceptance by both physicians and patients.

9 2. On information and belief, Paddock Laboratories, Inc. ("Paddock" or
10 "Defendant") has a primary place of business at 3940 Quebec Avenue North,
11 Minneapolis, Minnesota 55427.

12 **Jurisdiction and Venue**

13 3. This action arises under the patent laws of the United States of America,
14 Title 35, United States Code. Jurisdiction is founded on Title 28, United States Code §§
15 1331 and 1338(a).

16 4. Venue in this judicial district is proper under the provisions of 28 U.S.C. §§
17 1391(b) and 1400(b) because, on information and belief, Defendant's unlawful acts of
18 infringement have occurred, and continue to occur, in this District.

19 **Factual Background**

20 5. On September 24, 2002, United States Patent No. 6,455,551 (the "'551
21 patent"), entitled "USE OF 1-HYDROXY-2-PYRIDONES FOR TREATING MUCOSA
22 DISEASES WHICH ARE DIFFICULT TO TREAT," was duly and legally issued to
23 inventors Karl Theodor Kraemer and Manfred Schweriner Bohn. A copy of the '551
24 patent is attached.

25 6. Medicis owns the '551 patent.

26 7. The '551 patent claims novel methods and compositions relating to the use
27 of 1-Hydroxy-2-Pyridones for treating fungal disorders.
28

1 8. Medicis is informed and believes that Paddock has and continues to infringe
2 directly, and/or by inducement, upon one or more claims of the '551 patent by making,
3 using, offering for sale, selling, and/or importing infringing products, including, but not
4 limited to, ciclopirox shampoo for the topical treatment of seborrheic dermatitis of the
5 scalp, in this District and elsewhere.

6 **First Claim for Relief – Patent Infringement**

7 9. Each of the preceding paragraphs 1-8 is incorporated as if fully set forth
8 herein.

9 10. Paddock's acts of infringement will continue unless enjoined by this Court.

10 11. Paddock's acts of infringement have caused and will continue to cause
11 Medicis substantial irreparable injury for which Medicis is entitled to injunctive relief and
12 damages to compensate Medicis for such infringement.

13 **Requested Relief**

14 WHEREFORE, Medicis respectfully seeks the following relief:

- 15 a. A judgment that Paddock has infringed the '551 patent;
- 16 b. An award of damages, including treble damages, pursuant to 35 U.S.C.
17 § 284 arising out of Paddock's acts of infringement;
- 18 c. That the Court preliminarily and permanently enjoin, pursuant to 35 U.S.C.
19 § 283, Paddock, its officers, directors, principals, agents, servants, employees, successors
20 and assigns, and all of those in active concert or participation with Paddock, or under
21 Paddock's authority, from making, using, offering for sale, selling and/or importing
22 infringing products, including but not limited to Paddock's ciclopirox shampoo, and from
23 otherwise infringing, contributing to the infringement of, or actively inducing
24 infringement of, the '551 patent;
- 25 d. That this is an exceptional case under 35 U.S.C. § 285, and that judgment be
26 entered for costs and reasonable attorneys' fees to be awarded to Medicis;
- 27 e. That the Court order an award of pre-judgment and post-judgment interest
28 on the above damages awards; and

1 f. That this Court award such other and further relief as the Court may deem
2 proper and just under the circumstances.

3
4 RESPECTFULLY SUBMITTED this 1st day of December, 2009.

5
6 By /s/Kelly A. Kszywienski
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