

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

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|--------------------------------|---|-------------------------------|
| ACTAVIS LABORATORIES UT, INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | Civil Action No. 2:15-cv-1001 |
| UCB, INC., |) | |
| |) | Jury Trial Demanded |
| Defendant. |) | |

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Actavis Laboratories UT, Inc. (“Actavis” or “Plaintiff”), for its complaint against Defendant UCB, Inc. (“UCB” or “Defendant”), through its attorneys, alleges as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Patent No. 7,921,999 (“the ’999 patent”) under 35 U.S.C. §271, *et seq.*

THE PARTIES

2. Actavis is a corporation organized and existing under the laws of the State of Delaware, having a place of business at 577 Chipeta Way, Salt Lake City, Utah 84018.

3. Actavis sells numerous pharmaceutical products for distribution, and regularly conducts business, in the State of Texas.

4. UCB is a corporation organized and existing under the laws of the State of Delaware, having a place of business at 1950 Lake Park Drive, Smyrna, Georgia 30080.

5. UCB is the owner of New Drug Application (“NDA”) No. 021829 for Rotigotine Transdermal System, which is prescribed and sold in the United States under the name Neupro®.

6. On information and belief, Neupro® was first approved in the United States on May 9, 2007, was recalled in April 2008, and was re-launched in the United States in July 2012. On information and belief, since at least that time, UCB has acted to distribute and sell Neupro® throughout the United States, including in Texas and in this judicial District.

7. On information and belief, UCB knows and intends that Neupro® will continue to be distributed and sold in the United States, including in Texas and in this judicial District.

JURISDICTION AND VENUE

8. This civil action for patent infringement arises under the patent laws of the United States, United States Code, Title 35, Section 1, *et seq.* This Court has subject matter jurisdiction over the action under 28 U.S.C. §§ 1331, 1338.

9. On information and belief, this Court has personal jurisdiction over UCB because, *inter alia*, the company regularly does business in Texas and has engaged in a persistent course of conduct within Texas by continuously and systematically placing goods into the stream of commerce for distribution throughout the United States, including Texas, and/or by directly selling pharmaceutical products in Texas. On information and belief, UCB derives substantial revenue from the sale of products to customers in Texas.

10. This Court has personal jurisdiction over UCB by virtue of its systematic and continuous contacts with this jurisdiction, as alleged herein, as well as because of the injury to Actavis, and the cause of action Actavis has raised, as alleged herein. Actavis's cause of action arises directly from UCB's business contacts and other activities in Texas and this District.

11. Specifically, but not by way of limitation, this Court has personal jurisdiction over UCB because it either directly or through an agent, regularly does or solicits business in this jurisdiction, engages in other persistent courses of conduct in this jurisdiction, and/or derives

substantial revenue from services or things used or consumed in this jurisdiction. In addition, UCB has engaged in actionable conduct in the Eastern District of Texas from which this lawsuit arises.

12. On information and belief, UCB is the holder of License No. 1000443 with the Texas Department of State Health Services to distribute and sell prescription drugs.

13. On information and belief, UCB's products, including Neupro®, appear on the Formulary Index of the Texas CHIP/Medicaid Vendor Drug Program, which provides services for over 4,000 Texas pharmacies, including pharmacies in this District.

14. On information and belief, UCB products, including Neupro®, appear on the formulary list of BlueCross BlueShield Texas, a major managed care and health plan.

15. On information and belief, on August 13, 2013, UCB, through its wholly owned subsidiary UCB Biosciences Inc., entered into a Master Clinical Trial Agreement (“the Agreement”) with various member institutions of the University of Texas System, appointing these institutions to arrange and administer studies to evaluate one or more of UCB's pharmaceutical products and/or medical devices. On information and belief, the Agreement is effective until August 13, 2020.

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

COUNT I
(INFRINGEMENT OF UNITED STATES PATENT NO. 7,921,999)

17. Actavis incorporates paragraphs 1 through 16 herein by reference.

18. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. § 271, *et seq.*

19. The '999 patent, entitled "Peelable Pouch for Transdermal Patch and Method for Packaging," issued to Michael W. Kimball on April 12, 2011, and is assigned to Actavis. A copy of the '999 patent is attached to this complaint as Exhibit A.

20. The '999 patent is valid and enforceable and was duly issued in full compliance with Title 35 of the United States Code.

21. Actavis, as the current assignee, owns the entire right, title, and interest in the '999 patent, including the right to sue for past and future infringement and all other substantial rights.

22. The '999 patent covers a peelable pouch system for holding a transdermal patch containing rotigotine.

23. Neupro® is a peelable pouch system holding a transdermal patch containing rotigotine.

24. Neupro® is covered by at least one claim of the '999 patent.

(Direct Infringement under 35 U.S.C. § 271(a))

25. The commercial manufacture, use, sale, offer for sale, or importation of Neupro® constitutes an act of direct infringement of one or more claims of the '999 patent.

26. UCB infringes one or more claims of the '999 patent, by making, using, selling, or offering to sell Neupro® throughout the United States or importing Neupro® into the United States.

27. The foregoing actions by UCB constitute infringement of the '999 patent.

28. UCB is committing these acts of infringement without license or authorization.

29. UCB's actions complained of herein are causing irreparable harm and monetary damage to Actavis and will continue to do so unless and until UCB is enjoined and restrained by this Court.

30. As a result of UCB's infringement of the '999 patent, Actavis is entitled to recover from UCB the damages sustained by Actavis as a result of UCB's wrongful acts, in an amount subject to proof at trial, which by law cannot be less than a reasonable royalty, together with interest, and costs as fixed by this court under 35 U.S.C. § 284.

JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 38(b), Actavis hereby demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Actavis respectfully prays that this Court enter judgment in its favor against Defendants as follows:

- (a) a judgment that UCB has infringed the '999 patent under 35 U.S.C. § 271(a) by the commercial manufacture, use, sale, offer to sell within the United States, or importation into the United States, of Neupro®;
- (b) an injunction enjoining and restraining UCB, and its successors, assigns, officers, agents, servants, employees, attorneys, and persons in active concert or participation with them, including affiliated entities, during the term of the '999 patent, from infringing the '999 patent by making, using, selling, or offering to sell Neupro® in the United States, or importing Neupro® into the United States;
- (c) an award of damages resulting from UCB's infringement, including at least a reasonable royalty;

- (d) an award of Actavis's damages, costs, expenses, and prejudgment and post-judgment interest, for UCB's infringement of the '999 patent in accordance with 35 U.S.C. § 284;
- (e) a declaration that this is an exceptional case, pursuant to 35 U.S.C. § 285 and an award to Actavis reasonable attorneys' fees, costs, and any other appropriate relief;
- (f) an accounting for infringing sales not presented at trial and an award of additional damages for any such infringing sales; and
- (g) such other and further relief, at law or in equity, as the Court may deem just and proper.

Dated: June 8, 2015

Respectfully submitted,

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