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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SUPERNUS PHARMACEUTICALS, INC.,

Plaintiff,

v.

**PAR PHARMACEUTICAL COMPANIES,
INC. and PAR PHARMACEUTICAL,
INC.,**

Defendants.

Civil Action No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

(Filed Electronically)

COMPLAINT

Plaintiff Supernus Pharmaceuticals, Inc. (“Supernus”) by its undersigned attorneys, for its Complaint against defendants Par Pharmaceutical Companies, Inc. (“Par”) and Par Pharmaceutical, Inc. (“Par Pharmaceutical”) (collectively, “Defendants”), herein alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, involving United States Patent Nos. 8,298,576 (“the

'576 patent"), 8,298,580 ("the '580 patent"), 8,663,683 ("the '683 patent"), and 8,877,248 ("the '248 patent") attached hereto as Exhibits A, B, C, and D, respectively.

THE PARTIES

2. Plaintiff Supernus is a corporation organized and existing under the laws of Delaware, having its principal place of business at 1550 East Gude Drive, Rockville, Maryland 20850.

3. Upon information and belief, Par is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 300 Tice Boulevard., Woodcliff Lake, New Jersey 07677.

4. Upon information and belief, Par is in the business of, *inter alia*: (i) the development and manufacture of generic pharmaceutical products for sale throughout the United States, including throughout the State of New Jersey; (ii) through its various subsidiaries, including defendant Par Pharmaceutical, the preparation, submission, and filing of Abbreviated New Drug Applications ("ANDAs") seeking U.S. Food and Drug Administration ("FDA") approval to market generic drugs throughout the United States; and (iii) through its various subsidiaries, including defendant Par Pharmaceutical, the distribution of generic pharmaceutical products for sale throughout the United States, including throughout the State of New Jersey.

5. Par's Form 10-K, filed with the U.S. Securities and Exchange Commission on March 18, 2014 states that "[t]he majority of [its] generic products are distributed under an associated Abbreviated New Drug Application ('ANDA') owned or licensed by us and approved by the Food and Drug Administration," and that "[a]s of the fourth quarter of 2013, we or our strategic partners had approximately 73 ANDAs pending with the FDA." Par Pharmaceutical Companies, Inc.'s Form 10-K for the Year Ended December 31, 2013 ("Form 10-K") at 4. Par's Form 10-K further states that it "operate[s] primarily in the United States, the largest generics

market in the world, where [it] ranked fifth in revenues among all generic drug companies,” and that it markets its “generic products primarily to wholesalers, drug store chains, supermarket chains, mass merchandisers, distributors, mail order accounts, and government.” *Id.* at 4-5.

6. According to Par’s Form 10-K, Par conducts its business of “developing, licensing, manufacturing, marketing and distributing,” *inter alia*, generic pharmaceutical products “principally through its wholly owned operating subsidiary, Par Pharmaceutical, Inc.” Form 10-K at 3. Par’s Form 10-K further identifies “Par Pharmaceutical” as its generic products division. *Id.* at 3, 42. Par’s Form 10-Q, filed with the U.S. Securities and Exchange Commission on November 12, 2014, reports over \$871 million in revenues for the Par Pharmaceutical business segment in the nine months ended September 30, 2014. Par Pharmaceutical Companies, Inc.’s Form 10-Q for the Quarterly Period Ended September 30, 2014 at 39.

7. Upon information and belief, Par Pharmaceutical is a corporation organized and existing under the laws of the State of New Jersey, having a principal place of business at One Ram Ridge Road, Spring Valley, New York 10977. Upon information and belief, Par Pharmaceutical is registered as a drug manufacturer and wholesale distributor in the State of New Jersey under the registration number 5004032.

8. Upon information and belief, Par Pharmaceutical is wholly owned by defendant Par. Upon information and belief, Par Pharmaceutical acts at the direction of, under the control of, and for the direct benefit of Par, and is controlled and/or dominated by Par. Upon information and belief, Par Pharmaceutical and Par have at least one officer and/or director in common.

9. Upon information and belief, Par Pharmaceutical is in the business of (i) the development and manufacture of generic pharmaceutical products for sale throughout the United States, including throughout the State of New Jersey; (ii) the preparation, submission, and filing of ANDAs seeking FDA approval to market generic drugs throughout the United States; and (iii) the distribution of generic pharmaceutical products for sale throughout the United States, including throughout the State of New Jersey.

10. Upon information and belief, Par Pharmaceutical prepared and then submitted and filed ANDA No. 205976 (“the Par ANDA”) with the FDA seeking approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of Topiramate Extended Release Capsules, 25 mg, 50 mg, 100 mg, and 200 mg (“the Par Products”).

11. Upon information and belief, Par manufactures generic pharmaceutical products for which Par Pharmaceutical is the named ANDA applicant, including Amlodipine and Valsartan Tablets (5 mg/160 mg, 10 mg/160 mg, 5 mg/320 mg, and 10 mg/320 mg); Glipizide Extended-Release Tablets (5 mg and 10 mg); and Clonazepam Orally Disintegrating Tablets, USP CIV (0.125 mg, 0.25 mg, 0.5 mg, 1 mg, and 2 mg). Upon information and belief, Defendants derive substantial revenue from the sale of such generic pharmaceutical products.

JURISDICTION AND VENUE

12. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

13. This Court has personal jurisdiction over Par because, *inter alia*: (i) Par’s principal place of business is located in the State of New Jersey; (ii) Par, together with its subsidiary Par Pharmaceutical, has committed, induced, or contributed to acts of patent infringement in New Jersey; (iii) Par regularly does or solicits business in New Jersey and/or

derives substantial revenue from services or things used or consumed in New Jersey; (iv) Par is doing business in New Jersey and maintains continuous and systemic contacts with this judicial district; and (iv) Par has availed itself of the rights, benefits, and privileges of this Court by asserting claims in at least four prior New Jersey actions (*Depomed, Inc. v. Impax Labs., Inc., et al.*, Civil Action No. 12-2154; *Sanofi-Aventis U.S. LLC., et al. v. Mustafa Nevsat Ilac Sanayii A.S., et al.*, Civil Action No. 08-0263; *Novartis Corp., et al. v. Par Pharm. Cos., Inc., et al.*, Civil Action No. 06-4788; *Ortho-McNeil Pharm., Inc. v. Kali Labs., Inc., et al.*, Civil Action No. 06-3533).

14. This Court has personal jurisdiction over Par Pharmaceutical because, *inter alia*: (i) Par Pharmaceutical is a corporation organized and existing under the laws of the State of New Jersey; (ii) Par Pharmaceutical is wholly owned by defendant Par, which has a principal place of business is located in the State of New Jersey; (iii) Par Pharmaceutical, together with Par, has committed, induced, or contributed to acts of patent infringement in New Jersey; (iv) Par Pharmaceutical regularly does or solicits business in New Jersey and/or derives substantial revenue from services or things used or consumed in New Jersey; (v) Par Pharmaceutical is doing business in New Jersey and maintains continuous and systematic contacts with this judicial district; and (vi) Par Pharmaceutical has availed itself of the rights, benefits, and privileges of this Court by asserting claims in at least eight prior New Jersey actions (*Par Pharm., Inc., et al. v. Breckenridge Pharm., Inc.*, Civil Action No. 13-4000; *Par Pharm., Inc. v. Endo Pharm., Inc.*, Civil Action No. 05-1758; *Depomed, Inc. v. Impax Labs., Inc., et al.*, Civil Action No. 12-2154; *Sanofi-Aventis U.S. LLC., et al. v. Mustafa Nevsat Ilac Sanayii A.S., et al.*, Civil Action No. 08-0263; *Novartis Corp., et al. v. Par Pharm. Cos. Inc., et al.*, Civil Action No. 06-4788; *Ortho-McNeil Pharm., Inc. v. Kali Labs., Inc., et al.*, Civil Action No. 06-3533; *Jazz Pharm., Inc. v.*

Par Pharm., Inc., Civil Action No. 14-5139; *Purdue Pharm. Prods. L.P., et al. v. Par Pharm., Inc.*, Civil Action No. 12-6738).

15. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c), and § 1400(b).

FACTS AS TO ALL COUNTS

16. Supernus owns New Drug Application (“NDA”) No. 201635, which was approved by the FDA for the manufacture and sale of topiramate extended-release capsules, 25 mg, 50 mg, 100 mg, and 200 mg, which Supernus markets under the name Trokendi XR[®].

17. Trokendi XR[®] is an antiepileptic drug indicated for: (i) initial monotherapy in patients 10 years of age and older with partial onset or primary generalized tonic-clonic seizures; (ii) adjunctive therapy in patients 6 years of age and older with partial onset or primary generalized tonic-clonic seizures; and (iii) adjunctive therapy in patients 6 years of age and older with seizures associated with Lennox-Gastaut syndrome.

18. The ’576 patent, entitled “Sustained-Release Formulations of Topiramate” was duly and legally issued by the United States Patent and Trademark Office on October 30, 2012, to Supernus upon assignment from inventors Likan Liang, Hua Wang, Padmanabh P. Bhatt, and Michael L. Vieira. Supernus owns all rights, title, and interest in the ’576 patent.

19. The ’580 patent, entitled “Sustained-Release Formulations of Topiramate” was duly and legally issued by the United States Patent and Trademark Office on October 30, 2012, to Supernus upon assignment from inventors Likan Liang, Hua Wang, Padmanabh P. Bhatt, and Michael L. Vieira. Supernus owns all rights, title, and interest in the ’580 patent.

20. The ’683 patent, entitled “Sustained-Release Formulations of Topiramate” was duly and legally issued by the United States Patent and Trademark Office on March 4, 2014, to

Supernus upon assignment from inventors Likan Liang, Hua Wang, Padmanabh P. Bhatt, and Michael L. Vieira. Supernus owns all rights, title, and interest in the '683 patent.

21. The '248 patent, entitled "Sustained-Release Formulations of Topiramate" was duly and legally issued by the United States Patent and Trademark Office on November 4, 2014, to Supernus upon assignment from inventors Likan Liang, Hua Wang, Padmanabh P. Bhatt, and Michael L. Vieira. Supernus owns all rights, title, and interest in the '248 patent.

22. Pursuant to 21 U.S.C. § 355(b)(1), the '576, '580, '683, and '248 patents are listed in the FDA's publication titled "Approved Drug Products with Therapeutic Equivalence Evaluations" (commonly known as the "*Orange Book*") as covering Trokendi XR[®]. Supernus submitted the '576, '580, '683, and '248 patents to the FDA to be listed in the *Orange Book* for NDA No. 201635.

23. Upon information and belief, Defendants worked in concert to prepare, and then submit and file the Par ANDA with the FDA under § 505(j) of the Federal Food, Drug, and Cosmetic Act ("FDCA") (codified at 21 U.S.C. § 355(j)), seeking approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation of the Par Products and included a "paragraph IV" certification seeking approval before the expiration of the '576, '580, '683, and '248 patents.

24. 21 U.S.C. § 355(j)(2)(B)(iv)(II) requires that a letter notifying a patent holder of the filing of an ANDA containing a paragraph IV certification "include a detailed statement of the factual and legal basis of the opinion of the applicant that the patent is invalid or will not be infringed." Likewise, 21 C.F.R. § 314.95(c)(6) requires that such a letter include "[a] detailed statement of the factual and legal basis of the applicant's opinion that the patent is not valid, unenforceable, or will not be infringed." The detailed statement must include "(i) [f]or each

claim of a patent alleged not to be infringed, a full and detailed explanation of why the claim is not infringed” and “(ii) [f]or each claim of a patent alleged to be invalid or unenforceable, a full and detailed explanation of the grounds supporting the allegation.” 21 C.F.R. § 314.95(c)(6)(i)-(ii).

25. Supernus received a letter dated December 5, 2014, which was purportedly sent pursuant to § 505(j)(2)(B)(ii) of the FDCA, regarding the Par Products and the ’576, ’580, ’683, and ’248 patents (the “December 5 Notice Letter”).

26. The December 5 Notice Letter was signed by Michelle Bonomi-Huvala, Senior Vice President, Corporate Regulatory Affairs, Par Pharmaceutical, Inc.

FIRST COUNT
(Defendants’ Infringement of the ’576 Patent)

1. Plaintiff repeats and re-alleges each of the foregoing Paragraphs as if fully set forth herein.

2. Upon information and belief, Defendants seek FDA approval for the manufacture, use, marketing, sale, and/or distribution of the Par Products.

3. Upon information and belief, Defendants included in ANDA No. 205976 a paragraph IV certification to the ’576 patent to obtain approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation of the Par Products before the expiration of the ’576 patent.

4. Upon information and belief, Defendants will commercially manufacture, use, sell, offer for sale, and/or import the Par Products upon, or in anticipation of, FDA approval.

5. The submission and filing of ANDA No. 205976 with a paragraph IV certification to the ’576 patent for the purpose of obtaining approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par

Products before the expiration of the '576 patent is an act of infringement by Defendants of one or more claims of the '576 patent under 35 U.S.C. § 271(e)(2)(A).

6. Upon information and belief, Defendants' commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products that are the subject of ANDA No. 205976 will infringe, directly and/or indirectly (including by inducement and/or contributory infringement) one or more claims of the '576 patent under 35 U.S.C. § 271(a), 35 U.S.C. § 271(b), and/or 35 U.S.C. § 271(c).

7. Upon information and belief, the sale or offer for sale of the Par Products by Defendants would induce and/or contribute to third party infringement of one or more claims of the '576 patent under 35 U.S.C. § 271.

8. Upon information and belief, Par is jointly and severally liable for Par Pharmaceutical's infringement of one or more claims of the '576 patent.

9. Upon information and belief, Par knowingly induced Par Pharmaceutical to infringe and/or contributed to Par Pharmaceutical's infringement of one or more claims of the '576 patent.

10. Upon information and belief, Par actively induced, encouraged, aided, or abetted Par Pharmaceutical's preparation, submission, and filing of ANDA No. 205976 with a paragraph IV certification to the '576 patent.

11. Par's inducement, encouragement, aiding, or abetting of Par Pharmaceutical's preparation, submission, and filing of ANDA No. 205976 with a paragraph IV certification constitutes infringement of the '576 patent under 35 U.S.C. § 271(e)(2)(A). Further, Par's commercial use, sale, offer for sale, and/or importation of the Par Products would induce and/or

contribute to Par Pharmaceutical's infringement of the '576 patent under 35 U.S.C. § 271(b) and/or 35 U.S.C. § 271(c).

12. Upon information and belief, Par's inducement, encouragement, aiding, and/or abetting of the sale or offer for sale of the Par Products by Par Pharmaceutical would induce and/or contribute to third party infringement of one or more claims of the '576 patent under 35 U.S.C. § 271.

13. Upon information and belief, Par has, continues to, and will actively induce, encourage, aid, or abet Par Pharmaceutical's infringement of the '576 patent with knowledge of infringement in contravention of the rights of Supernus.

14. Defendants' infringement of the '576 patent has caused and will cause Supernus to suffer irreparable harm. Defendants' infringement will continue unless enjoined by the Court. Supernus has no adequate remedy at law and thus preliminary and permanent injunctions are appropriate to prohibit Defendants from infringing the '576 patent.

15. As of the date of the December 5 Notice Letter, Defendants were aware of the existence of the '576 patent—as well as the statutory provisions and regulations set forth in 21 U.S.C. § 355 and 21 C.F.R. § 314.95—and acted without a reasonable basis for believing that they would not be liable for infringement of the '576 patent, thus rendering this case “exceptional” under 35 U.S.C. § 285.

SECOND COUNT
(Defendants' Infringement of the '580 Patent)

16. Plaintiff repeats and re-alleges each of the foregoing Paragraphs as if fully set forth herein.

17. Upon information and belief, Defendants seek FDA approval for the manufacture, use, marketing, sale, and/or distribution of the Par Products.

18. Upon information and belief, Defendants included in ANDA No. 205976 a paragraph IV certification to the '580 patent to obtain approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation of the Par Products before the expiration of the '580 patent.

19. Upon information and belief, Defendants will commercially manufacture, use, sell, offer for sale, and/or import the Par Products upon, or in anticipation of, FDA approval.

20. The submission and filing of ANDA No. 205976 with a paragraph IV certification to the '580 patent for the purpose of obtaining approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products before the expiration of the '580 patent is an act of infringement by Defendants of one or more claims of the '580 patent under 35 U.S.C. § 271(e)(2)(A).

21. Upon information and belief, Defendants' commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products that are the subject of ANDA No. 205976 will infringe, directly and/or indirectly (including by inducement and/or contributory infringement) one or more claims of the '580 patent under 35 U.S.C. § 271(a), 35 U.S.C. § 271(b), and/or 35 U.S.C. § 271(c).

22. Upon information and belief, the sale or offer for sale of the Par Products by Defendants would induce and/or contribute to third party infringement of one or more claims of the '580 patent under 35 U.S.C. § 271.

23. Upon information and belief, Par is jointly and severally liable for Par Pharmaceutical's infringement of one or more claims of the '580 patent.

24. Upon information and belief, Par knowingly induced Par Pharmaceutical to infringe and/or contributed to Par Pharmaceutical's infringement of one or more claims of the '580 patent.

25. Upon information and belief, Par actively induced, encouraged, aided, or abetted Par Pharmaceutical's preparation, submission and filing of ANDA No. 205976 with a paragraph IV certification to the '580 patent.

26. Par's inducement, encouragement, aiding, or abetting of Par Pharmaceutical's preparation, submission, and filing of ANDA No. 205976 with a paragraph IV certification constitutes infringement of the '580 patent under 35 U.S.C. § 271(e)(2)(A). Further, Par's commercial use, sale, offer for sale, and/or importation of the Par Products would induce and/or contribute to Par Pharmaceutical's infringement of the '580 patent under 35 U.S.C. § 271(b) and/or 35 U.S.C. § 271(c).

27. Upon information and belief, Par's inducement, encouragement, aiding, and/or abetting of the sale or offer for sale of the Par Products by Par Pharmaceutical would induce and/or contribute to third party infringement of one or more claims of the '580 patent under 35 U.S.C. § 271.

28. Upon information and belief, Par has, continues to, and will actively induce, encourage, aid, or abet Par Pharmaceutical's infringement of the '580 patent with knowledge of infringement in contravention of the rights of Supernus.

29. Defendants' infringement of the '580 patent has caused and will cause Supernus to suffer irreparable harm. Defendants' infringement will continue unless enjoined by the Court. Supernus has no adequate remedy at law and thus preliminary and permanent injunctions are appropriate to prohibit Defendants from infringing the '580 patent.

30. As of the date of the December 5 Notice Letter, Defendants were aware of the existence of the '580 patent—as well as the statutory provisions and regulations set forth in 21 U.S.C. § 355 and 21 C.F.R. § 314.95—and acted without a reasonable basis for believing that they would not be liable for infringement of the '580 patent, thus rendering this case “exceptional” under 35 U.S.C. § 285.

THIRD COUNT
(Defendants' Infringement of the '683 Patent)

31. Plaintiff repeats and re-alleges each of the foregoing Paragraphs as if fully set forth herein.

32. Upon information and belief, Defendants seek FDA approval for the manufacture, use, marketing, sale, and/or distribution of the Par Products.

33. Upon information and belief, Defendants included in ANDA No. 205976 a paragraph IV certification to the '683 patent to obtain approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation of the Par Products before the expiration of the '683 patent.

34. Upon information and belief, Defendants will commercially manufacture, use, sell, offer for sale, and/or import the Par Products upon, or in anticipation of, FDA approval.

35. The submission and filing of ANDA No. 205976 with a paragraph IV certification to the '683 patent for the purpose of obtaining approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products before the expiration of the '683 patent is an act of infringement by Defendants of one or more claims of the '683 patent under 35 U.S.C. § 271(e)(2)(A).

36. Upon information and belief, Defendants' commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products that are the subject of

ANDA No. 205976 will infringe, directly and/or indirectly (including by inducement and/or contributory infringement) one or more claims of the '683 patent under 35 U.S.C. § 271(a), 35 U.S.C. § 271(b), and/or 35 U.S.C. § 271(c).

37. Upon information and belief, the sale or offer for sale of the Par Products by Defendants would induce and/or contribute to third party infringement of one or more claims of the '683 patent under 35 U.S.C. § 271.

38. Upon information and belief, Par is jointly and severally liable for Par Pharmaceutical's infringement of one or more claims of the '683 patent.

39. Upon information and belief, Par knowingly induced Par Pharmaceutical to infringe and/or contributed to Par Pharmaceutical's infringement of one or more claims of the '683 patent.

40. Upon information and belief, Par actively induced, encouraged, aided, or abetted Par Pharmaceutical's preparation, submission and filing of ANDA No. 205976 with a paragraph IV certification to the '683 patent.

41. Par's inducement, encouragement, aiding, or abetting of Par Pharmaceutical's preparation, submission, and filing of ANDA No. 205976 with a paragraph IV certification constitutes infringement of the '683 patent under 35 U.S.C. § 271(e)(2)(A). Further, Par's commercial use, sale, offer for sale, and/or importation of the Par Products would induce and/or contribute to Par Pharmaceutical's infringement of the '683 patent under 35 U.S.C. § 271(b) and/or 35 U.S.C. § 271(c).

42. Upon information and belief, Par's inducement, encouragement, aiding, and/or abetting of the sale or offer for sale of the Par Products by Par Pharmaceutical would induce

and/or contribute to third party infringement of one or more claims of the '683 patent under 35 U.S.C. § 271.

43. Upon information and belief, Par has, continues to, and will actively induce, encourage, aid, or abet Par Pharmaceutical's infringement of the '683 patent with knowledge of infringement in contravention of the rights of Supernus.

44. Defendants' infringement of the '683 patent has caused and will cause Supernus to suffer irreparable harm. Defendants' infringement will continue unless enjoined by the Court. Supernus has no adequate remedy at law and thus preliminary and permanent injunctions are appropriate to prohibit Defendants from infringing the '683 patent.

45. As of the date of the December 5 Notice Letter, Defendants were aware of the existence of the '683 patent—as well as the statutory provisions and regulations set forth in 21 U.S.C. § 355 and 21 C.F.R. § 314.95—and acted without a reasonable basis for believing that they would not be liable for infringement of the '683 patent, thus rendering this case “exceptional” under 35 U.S.C. § 285.

FOURTH COUNT
(Defendants' Infringement of the '248 Patent)

46. Plaintiff repeats and re-alleges each of the foregoing Paragraphs as if fully set forth herein.

47. Upon information and belief, Defendants seek FDA approval for the manufacture, use, marketing, sale, and/or distribution of the Par Products.

48. Upon information and belief, Defendants included in ANDA No. 205976 a paragraph IV certification to the '248 patent to obtain approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation of the Par Products before the expiration of the '248 patent.

49. Upon information and belief, Defendants will commercially manufacture, use, sell, offer for sale, and/or import the Par Products upon, or in anticipation of, FDA approval.

50. The submission and filing of ANDA No. 205976 with a paragraph IV certification to the '248 patent for the purpose of obtaining approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products before the expiration of the '248 patent is an act of infringement by Defendants of one or more claims of the '248 patent under 35 U.S.C. § 271(e)(2)(A).

51. Upon information and belief, Defendants' commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products that are the subject of ANDA No. 205976 will infringe, directly and/or indirectly (including by inducement and/or contributory infringement) one or more claims of the '248 patent under 35 U.S.C. § 271(a), 35 U.S.C. § 271(b), and/or 35 U.S.C. § 271(c).

52. Upon information and belief, the sale or offer for sale of the Par Products by Defendants would induce and/or contribute to third party infringement of one or more claims of the '248 patent under 35 U.S.C. § 271.

53. Upon information and belief, Par is jointly and severally liable for Par Pharmaceutical's infringement of one or more claims of the '248 patent.

54. Upon information and belief, Par knowingly induced Par Pharmaceutical to infringe and/or contributed to Par Pharmaceutical's infringement of one or more claims of the '248 patent.

55. Upon information and belief, Par actively induced, encouraged, aided, or abetted Par Pharmaceutical's preparation, submission and filing of ANDA No. 205976 with a paragraph IV certification to the '248 patent.

56. Par's inducement, encouragement, aiding, or abetting of Par Pharmaceutical's preparation, submission, and filing of ANDA No. 205976 with a paragraph IV certification constitutes infringement of the '248 patent under 35 U.S.C. § 271(e)(2)(A). Further, Par's commercial use, sale, offer for sale, and/or importation of the Par Products would induce and/or contribute to Par Pharmaceutical's infringement of the '248 patent under 35 U.S.C. § 271(b) and/or 35 U.S.C. § 271(c).

57. Upon information and belief, Par's inducement, encouragement, aiding, and/or abetting of the sale or offer for sale of the Par Products by Par Pharmaceutical would induce and/or contribute to third party infringement of one or more claims of the '248 patent under 35 U.S.C. § 271.

58. Upon information and belief, Par has, continues to, and will actively induce, encourage, aid, or abet Par Pharmaceutical's infringement of the '248 patent with knowledge of infringement in contravention of the rights of Supernus.

59. Defendants' infringement of the '248 patent has caused and will cause Supernus to suffer irreparable harm. Defendants' infringement will continue unless enjoined by the Court. Supernus has no adequate remedy at law and thus preliminary and permanent injunctions are appropriate to prohibit Defendants from infringing the '248 patent.

60. As of the date of the December 5 Notice Letter, Defendants were aware of the existence of the '248 patent—as well as the statutory provisions and regulations set forth in 21 U.S.C. § 355 and 21 C.F.R. § 314.95—and acted without a reasonable basis for believing that they would not be liable for infringement of the '248 patent, thus rendering this case “exceptional” under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- i. A Judgment declaring that, pursuant to 35 U.S.C. § 271(e)(2)(A), the submission to the FDA and filing of ANDA No. 205976 with a paragraph IV certification to obtain approval for the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products was an act of infringement of the '576, '580, '683, and '248 patents by Defendants;
- ii. A Judgment declaring that, pursuant to 35 U.S.C. § 271(e)(2)(A), the submission to the FDA and filing of ANDA No. 205976 with a paragraph IV certification to obtain approval for the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Par Products was an act of infringement of the '576, '580, '683, and '248 patents by Defendants indirectly, including by inducement and/or contributory infringement;
- iii. A Judgment declaring that, pursuant to 35 U.S.C. § 271 (b) and/or 35 U.S.C. § 271(c), the commercial manufacture, use, sale, offer for sale, and/or importation in the United States of the products that are the subject of ANDA No. 205976 by Defendants would induce and/or contribute to third party infringement of the '576, '580, '683, and '248 patents;
- iv. A Judgment declaring that, pursuant to 35 U.S.C. § 271(e)(2)(A), 35 U.S.C. § 271(a), 35 U.S.C. § 271(b), and/or 35 U.S.C. § 271(c), the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the products that are the subject of ANDA No. 205976 prior to the expiration of the '576, '580, '683, and '248 patents, including any regulatory extensions, will constitute an act of infringement by Defendants;

- v. A Judgment declaring that, pursuant to 35 U.S.C. § 271(e)(2)(A), 35 U.S.C. § 271(a), 35 U.S.C. § 271(b), and/or 35 U.S.C. § 271(c), the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the products that are the subject of ANDA No. 205976 prior to the expiration of the '576, '580, '683, and '248 patents, including any regulatory extensions, will constitute an act of infringement by Defendants indirectly, including by inducement and/or contributory infringement;
- vi. An Order that, pursuant to 35 U.S.C. §§ 271(e)(4)(A), 281, and 283, the effective date of any approval of the products that are the subject of ANDA No. 205976 shall be no earlier than the date on which the '576, '580, '683, and '248 patents expire, including any regulatory extensions;
- vii. A Judgment pursuant to 35 U.S.C. §§ 271(e)(4)(B), 281, and 283, preliminarily and permanently enjoining Defendants and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation or privity with them or any of them, from engaging in the commercial manufacture, use, sale, offer for sale, and/or importation in the United States any product that is the subject of ANDA No. 205976 until the expiration of the '576, '580, '683, and '248 patents, including any regulatory extensions;
- viii. A Judgment awarding Supernus damages or other monetary relief, pursuant to 35 U.S.C. §§ 271(e)(4)(C) and 284, if Defendants commercially manufacture, use, sell, offer to sell, and/or import any product that is the subject of ANDA No. 205976 that infringes the '576, '580, '683, and/or '248 patents;
- ix. A Judgment declaring that infringement of the '576, '580, '683, and '248 patents is willful if Defendants commercially manufacture, use, sell, offer to sell, and/or import any

product that is the subject of ANDA No. 205976 that infringes '576, '580, '683, and '248 patents;

- x. A Judgment declaring that, pursuant to 35 U.S.C. § 285, this is an exceptional case and awarding Supernus its attorneys' fees and costs; and
- xi. Such other and further relief as this Court may deem just and proper.

Dated: January 16, 2015

Respectfully submitted,

By: s/ Charles M. Lizza

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