IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ALLERGAN, INC. and DUKE UNIVERSITY, **Plaintiffs,** **v.** **WATSON PHARMACEUTICALS, INC., WATSON LABORATORIES, INC., and WATSON PHARMA, INC.,** **Defendants.**	**Civil Action No. 12-cv-321** **JURY TRIAL DEMANDED**

PLAINTIFFS' COMPLAINT FOR PATENT INFRINGEMENT

For their Complaint against Defendants Watson Pharmaceuticals, Inc., Watson Laboratories, Inc., and Watson Pharma, Inc. (collectively "Watson" or "Defendants"), Plaintiffs Allergan, Inc. ("Allergan") and Duke University (collectively with Allergan, "Plaintiffs"), by their attorneys, allege as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Patent Nos. 7,351,404 ("the '404 patent"), 7,388,029 ("the '029 patent"), 8,038,988 ("the '988 patent"), 6,403,649 ("the '649 patent"), and 8,017,655 ("the '655 patent") under 35 U.S.C. § 271(a), (b), and (e)(2) that arises out of Watson's filing of Abbreviated New Drug Application ("ANDA") No. 203749 with the U.S. Food and Drug Administration ("FDA").

THE PARTIES

2. Allergan is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 2525 Dupont Drive, Irvine, California 92612.

3. Duke University is an educational, research and healthcare institution and a North Carolina nonprofit corporation located in Durham, North Carolina.

4. On information and belief, Watson Pharmaceuticals, Inc. ("Watson Pharmaceuticals") is a corporation organized and existing under the laws of the State of Nevada, having a principal place of business at Morris Corporate Center III, 400 Interpace Parkway, Parsippany, NJ 07054.

5. On information and belief, Watson Laboratories, Inc. ("Watson Laboratories") is a corporation organized and existing under the laws of the State of Nevada, having a principal place of business at 132 Business Center Drive, Corona, CA 92880.

6. On information and belief, Watson Laboratories is a wholly-owned subsidiary of Watson Pharmaceuticals, and the two share at least some common officers and directors.

7. On information and belief, Watson Pharma, Inc. ("Watson Pharma") is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 100 Campus Drive, Florham Park, New Jersey 07932.

8. On information and belief, Watson Pharma is a wholly-owned subsidiary of Watson Pharmaceuticals, and the two share at least some common officers and directors.

JURISDICTION AND VENUE

9. This action arises under the patent laws of the United States of America, 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, 2201, and 2202.

10. This Court has personal jurisdiction over Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma by virtue of their systematic and continuous contacts with this

jurisdiction, as alleged herein, as well as because of the injury to Plaintiffs, and the causes of action Plaintiffs have raised, as alleged herein.

11. Specifically, this Court has personal jurisdiction over Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma because they, either directly or through an agent, regularly do or solicit business in this jurisdiction, engage in other persistent courses of conduct in this jurisdiction, and/or derive substantial revenue from services or things used or consumed in this jurisdiction.

12. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma are agents of each other and/or work in active concert with respect to the development, regulatory approval, marketing, sale, and distribution of pharmaceutical products, including the generic Bimatoprost Ophthalmic Solution, 0.03%, described in ANDA No. 203749.

13. On information and belief, Watson Pharma and Watson Laboratories are licensed drug wholesalers in North Carolina.

14. On information and belief, Watson Pharma is on the list of Active Drug Rebate Labelers issued by the North Carolina Department of Health and Human Services.

15. On information and belief, Watson Pharma's drug products are listed on relevant North Carolina formulary(ies).

16. On information and belief, Watson Pharma markets and sells generic drugs manufactured by Watson Laboratories throughout the United States, including this judicial district.

17. On information and belief, in 2011 Watson Pharma sold over $320 million of products in North Carolina, over $136 million of which were sold in this judicial district.

18. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have previously availed themselves of this forum for purposes of litigating their disputes. Specifically, on information and belief, in Case No. 1:10-CV-462, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma sought removal of a suit from state court to federal court in this judicial district (General Court of Justice, Superior Court Division, County of Guildford, North Carolina, Docket No. 10-CVS-6027).

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

THE PATENTS-IN-SUIT

20. The ’404 patent, entitled “Methods of Enhancing Hair Growth,” issued to David F. Woodward and Amanda M. VanDenburgh on April 1, 2008. A copy of the ’404 patent is attached to this Complaint as Exhibit A.

21. Allergan, as assignee, owns the entire right, title, and interest in the ’404 patent.

22. The ’029 patent, entitled “Compositions and Methods for Treating Hair Loss Using Non-Naturally Occurring Prostaglandins,” issued to Mitchell Anthony DeLong, John McMillan McIver, and Robert Scott Youngquist on June 17, 2008. A copy of the ’029 patent is attached to this Complaint as Exhibit B.

23. Duke University, as assignee, owns the entire right, title, and interest in the ’029 patent.

24. Allergan is an exclusive field licensee of the ’029 patent.

25. The ’988 patent, entitled “Method of Enhancing Hair Growth,” issued to David F. Woodward and Amanda M. VanDenburgh on October 18, 2011. A copy of the ’988 patent is attached to this Complaint as Exhibit C.

26. Allergan, as assignee, owns the entire right, title, and interest in the ’988 patent.

27. The ’649 patent, entitled “Non-Acidic Cyclopentane Heptanoic Acid, 2-Cycloalkyl or Arylalkyl Derivatives as Therapeutic Agents,” issued to David F. Woodward, Steven W. Andrews, Robert M. Burk, and Michael E. Garst on June 11, 2002. A copy of the ’649 patent is attached to this Complaint as Exhibit D.

28. Allergan as assignee, owns the entire right, title, and interest in the ’649 patent.

29. The ’655 patent, entitled “Non-Acidic Cyclopentane Heptanoic Acid, 2-Cycloalkyl or Arylalkyl Derivatives as Therapeutic Agents,” issued to David F. Woodward, Steven W. Andrews, Robert M. Burk, and Michael E. Garst on September 13, 2011. A copy of the ’655 patent is attached to this Complaint as Exhibit E.

30. Allergan, as assignee, owns the entire right, title, and interest in the ’655 patent.

31. Allergan is the holder of an approved New Drug Application (“NDA”) No. 22-369 for bimatoprost ophthalmic solution, 0.03%, sold under the Latisse® registered trademark.

32. In conjunction with NDA No. 22-369, Allergan has listed with the FDA the ’404, ’029, ’988, ’649, and ’655 patents, which cover the approved formulation of Latisse® and methods of using the approved formulation. The FDA has published the ’404, ’029, ’988, ’649, and ’655 patents in the Approved Drug Products with Therapeutic Equivalence Evaluations, commonly referred to as the “Orange Book.”

33. Latisse® is covered by at least one claim of each of the ’404, ’029, ’988, ’649, and ’655 patents.

ACTS GIVING RISE TO THIS ACTION FOR INFRINGEMENT OF THE PATENTS-IN-SUIT

34. On or about February 29, 2012, Plaintiffs received a letter, dated February 28, 2012, signed on behalf of Watson Laboratories by Cynthia Katseny for Joyce Delgaudio, Executive Director of Regulatory Affairs.

35. The February 28, 2012 letter stated that Watson Laboratories had submitted ANDA No. 203749 under section 505(j) of the Federal Food, Drug, and Cosmetic Act ("FDCA"), 21 U.S.C. § 355(j). ANDA No. 203749 seeks approval to engage in the commercial manufacture, use, importation, sale, or offer for sale of Bimatoprost Ophthalmic Solution, 0.03%, a generic version of Allergan's Latisse® product, prior to expiration of the '404, '029, and '988 patents.

36. The February 28, 2012 letter stated that the '404, '029, and '988 patents are invalid and/or will not be infringed by the commercial manufacture, use, importation, sale, or offer for sale of Watson's proposed Bimatoprost Ophthalmic Solution, 0.03%.

37. Attached to the February 28, 2012 letter was a statement of the factual and legal bases for Watson Laboratories' certifications under 21 CFR § 314.94-.95 that the '404, '029, and '988 patents are invalid, unenforceable, or will not be infringed by the manufacture, use, importation, sale, or offer for sale of Watson's proposed Bimatoprost Ophthalmic Solution, 0.03%.

38. The February 28, 2012 letter did not make reference to or discuss the '649 or '655 patents. On or around March 9, 2012, Allergan requested confirmation from Watson that Watson had certified under 21 U.S.C. § 355(j)(2)(A)(vii)(III) as to the '649 patent and the '655 patent. In response, on March 14, 2012, Watson did not state whether or not it had certified under 21 U.S.C. § 355(j)(2)(A)(vii)(III) as to the '649 patent, or as to the '655 patent.

39. In filing ANDA No. 203749, Watson has requested the FDA's approval to market a generic version of Allergan's Latisse® product throughout the United States, including in North Carolina.

40. On information and belief, following FDA approval of ANDA No. 203749, Watson will sell the approved generic version of Allergan's Latisse® product throughout the United States, including in North Carolina.

41. On information and belief, Watson has made, and continues to make, substantial preparation in the United States to manufacture, offer for sale, sell, and/or import a generic version of Allergan's Latisse® product prior to the expiration of the '404 patent, the '029 patent, the '988 patent, the '649 patent, and the '655 patent.

42. Watson's actions, including, but not limited to, the development of a proposed generic Bimatoprost Ophthalmic Solution, 0.03% and the filing of ANDA No. 203749 with a Paragraph IV certification, indicate a refusal to change the course of their actions in the face of acts by Plaintiffs.

43. Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma continue to seek approval of ANDA No. 203749 from the FDA and intend to continue in the commercial manufacture, marketing, and sale of their proposed generic Bimatoprost Ophthalmic Solution, 0.03%.

COUNT I

(Infringement of the '404 Patent Under 35 U.S.C. § 271(e)(2) by Watson's Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

44. Paragraphs 1 to 43 are incorporated herein as set forth above.

45. Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma, acting jointly, submitted ANDA No. 203749 to the FDA under 21 U.S.C. §§ 355(j)(1) and (2)(A) to obtain approval to engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% throughout the United States. By submitting this application, Watson Pharmaceuticals, Watson Laboratories,

and Watson Pharma have committed an act of infringement of the ’404 patent under 35 U.S.C. § 271(e)(2)(A).

46. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the ’404 patent.

47. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the ’404 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA, in which they identified the ’404 patent as one of the patents covering the approved formulation of Latisse®.

48. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the ’404 patent.

49. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% in violation of Allergan’s patent rights will cause harm to Allergan for which damages are inadequate.

COUNT II

(Declaratory Judgment of Infringement of the ’404 Patent Under 35 U.S.C. §§ 271(a) and/or (b) by Watson’s Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

50. Paragraphs 1 through 49 are incorporated herein as set forth above.

51. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma will engage in the commercial manufacture, use, offer for sale, sale, and/or

importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% immediately and imminently upon approval of ANDA No. 203749.

52. The manufacture, use, offer for sale, sale, and/or importation of Watson's proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the '404 patent.

53. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma intend to, and will, actively induce infringement of the '404 patent when ANDA No. 203749 is approved, and plan and intend to, and will, do so immediately and imminently upon approval.

54. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the '404 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA, in which they identified the '404 patent as one of the patents covering the approved formulation of Latisse®.

55. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the '404 patent.

56. The foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the '404 patent and active inducement of infringement of the '404 patent.

57. This Court may declare the rights and other legal relations of the parties pursuant to 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy between Allergan on the one hand and Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma on the

other hand regarding Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma's infringement of the '404 patent and active inducement of infringement of the '404 patent.

58. Allergan is entitled to a judgment declaring that the foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the '404 patent and active inducement of infringement of the '404 patent.

59. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have acted with full knowledge of the '404 patent and without a reasonable basis for believing that they would not be liable for infringing the '404 patent and actively inducing the infringement of the '404 patent.

60. Unless Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma are enjoined from infringing the '404 patent and actively inducing infringement of the '404 patent, Allergan will suffer irreparable injury for which damages are an inadequate remedy.

COUNT III

(Infringement of the '029 Patent Under 35 U.S.C. § 271(e)(2) by Watson's Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

61. Paragraphs 1 to 60 are incorporated herein as set forth above.

62. Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma, acting jointly, submitted ANDA No. 203749 to the FDA under 21 U.S.C. §§ 355(j)(1) and (2)(A) to obtain approval to engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% throughout the United States. By submitting this application, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have committed an act of infringement of the '029 patent under 35 U.S.C. § 271(e)(2)(A).

63. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson's proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the '029 patent.

64. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the '029 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA, in which they identified the '029 patent as one of the patents covering the approved formulation of Latisse®.

65. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the '029 patent.

66. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson's proposed generic Bimatoprost Ophthalmic Solution, 0.03% in violation of Plaintiffs' patent rights will cause harm to Plaintiffs for which damages are inadequate.

COUNT IV

(Declaratory Judgment of Infringement of the '029 Patent Under 35 U.S.C. §§ 271(a) and/or (b) by Watson's Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

67. Paragraphs 1 through 66 are incorporated herein as set forth above.

68. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma will engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% immediately and imminently upon approval of ANDA No. 203749.

69. The manufacture, use, offer for sale, sale, and/or importation of Watson's proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the '029 patent.

70. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma intend to, and will, actively induce infringement of the '029 patent when ANDA No. 203749 is approved, and plan and intend to, and will, do so immediately and imminently upon approval.

71. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the '029 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA, in which they identified the '029 patent as one of the patents covering the approved formulation of Latisse®.

72. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the '029 patent.

73. The foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the '029 patent and active inducement of infringement of the '029 patent.

74. This Court may declare the rights and other legal relations of the parties pursuant to 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy between Plaintiffs on the one hand and Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma on the other hand regarding Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma's infringement of the '029 patent and active inducement of infringement of the '029 patent.

75. Plaintiffs are entitled to a judgment declaring that the foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the ’029 patent and active inducement of infringement of the ’029 patent.

76. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have acted with full knowledge of the ’029 patent and without a reasonable basis for believing that they would not be liable for infringing the ’029 patent and actively inducing the infringement of the ’029 patent.

77. Unless Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma are enjoined from infringing the ’029 patent and actively inducing infringement of the ’029 patent, Plaintiffs will suffer irreparable injury for which damages are an inadequate remedy.

COUNT V

(Infringement of the ’988 Patent Under 35 U.S.C. § 271(e)(2) by Watson’s Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

78. Paragraphs 1 to 77 are incorporated herein as set forth above.

79. Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma, acting jointly, submitted ANDA No. 203749 to the FDA under 21 U.S.C. §§ 355(j)(1) and (2)(A) to obtain approval to engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% throughout the United States. By submitting this application, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have committed an act of infringement of the ’988 patent under 35 U.S.C. § 271(e)(2)(A).

80. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the ’988 patent.

81. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the ’988 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA, in which they identified the ’988 patent as one of the patents covering the approved formulation of Latisse®.

82. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the ’988 patent.

83. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% in violation of Allergan’s patent rights will cause harm to Allergan for which damages are inadequate.

COUNT VI

(Declaratory Judgment of Infringement of the ’988 Patent Under 35 U.S.C. §§ 271(a) and/or (b) by Watson’s Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

84. Paragraphs 1 through 83 are incorporated herein as set forth above.

85. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma will engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% immediately and imminently upon approval of ANDA No. 203749.

86. The manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the ’988 patent.

87. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma intend to, and will, actively induce infringement of the ’988 patent when ANDA No. 203749 is approved, and plan and intend to, and will, do so immediately and imminently upon approval.

88. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the ’988 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA, in which they identified the ’988 patent as one of the patents covering the approved formulation of Latisse®.

89. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the ’988 patent.

90. The foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the ’988 patent and active inducement of infringement of the ’988 patent.

91. This Court may declare the rights and other legal relations of the parties pursuant to 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy between Allergan on the one hand and Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma on the other hand regarding Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma’s infringement of the ’988 patent and active inducement of infringement of the ’988 patent.

92. Allergan is entitled to a judgment declaring that the foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the ’988 patent and active inducement of infringement of the ’988 patent.

93. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have acted with full knowledge of the ’988 patent and without a reasonable basis for believing that they would not be liable for infringing the ’988 patent and actively inducing the infringement of the ’988 patent.

94. Unless Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma are enjoined from infringing the ’988 patent and actively inducing infringement of the ’988 patent, Allergan will suffer irreparable injury for which damages are an inadequate remedy.

COUNT VII

(Infringement of the ’649 Patent Under 35 U.S.C. § 271(e)(2) by Watson’s Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

95. Paragraphs 1 to 94 are incorporated herein as set forth above.

96. Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma, acting jointly, submitted ANDA No. 203749 to the FDA under 21 U.S.C. §§ 355(j)(1) and (2)(A) to obtain approval to engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% throughout the United States. By submitting this application, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have committed an act of infringement of the ’649 patent under 35 U.S.C. § 271(e)(2)(A). To the extent that Watson has filed a certification with the FDA stating that it does not seek approval of ANDA No. 203749 before the expiration of the ’649 patent, Watson has not informed Allergan of that fact.

97. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the ’649 patent.

98. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the ’649 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA.

99. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the ’649 patent.

100. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% in violation of Allergan’s patent rights will cause harm to Allergan for which damages are inadequate.

COUNT VIII

(Declaratory Judgment of Infringement of the ’649 Patent Under 35 U.S.C. §§ 271(a) and/or (b) by Watson’s Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

101. Paragraphs 1 through 100 are incorporated herein as set forth above.

102. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma will engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% immediately and imminently upon approval of ANDA No. 203749.

103. The manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the ’649 patent.

104. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma intend to, and will, actively induce infringement of the ’649 patent when ANDA

No. 203749 is approved, and plan and intend to, and will, do so immediately and imminently upon approval.

105. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the ’649 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA.

106. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the ’649 patent.

107. The foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the ’649 patent and active inducement of infringement of the ’649 patent.

108. This Court may declare the rights and other legal relations of the parties pursuant to 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy between Allergan on the one hand and Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma on the other hand regarding Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma’s infringement of the ’649 patent and active inducement of infringement of the ’649 patent.

109. Allergan is entitled to a judgment declaring that the foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the ’649 patent and active inducement of infringement of the ’649 patent.

110. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have acted with full knowledge of the ’649 patent and without a reasonable basis

for believing that they would not be liable for infringing the ’649 patent and actively inducing the infringement of the ’649 patent.

111. Unless Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma are enjoined from infringing the ’649 patent and actively inducing infringement of the ’649 patent, Allergan will suffer irreparable injury for which damages are an inadequate remedy.

COUNT IX

(Infringement of the ’655 Patent Under 35 U.S.C. § 271(e)(2) by Watson’s Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

112. Paragraphs 1 to 111 are incorporated herein as set forth above.

113. Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma, acting jointly, submitted ANDA No. 203749 to the FDA under 21 U.S.C. §§ 355(j)(1) and 2(A) to obtain approval to engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% throughout the United States. By submitting this application, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have committed an act of infringement of the ’655 patent under 35 U.S.C. § 271(e)(2)(A). To the extent that Watson has filed a certification with the FDA stating that it does not seek approval of ANDA No. 203749 before the expiration of the ’655 patent, Watson has not informed Allergan of that fact.

114. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the ’655 patent.

115. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the ’655 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA.

116. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the ’655 patent.

117. The commercial manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% in violation of Allergan’s patent rights will cause harm to Allergan for which damages are inadequate.

COUNT X

(Declaratory Judgment of Infringement of the ’655 Patent Under 35 U.S.C. §§ 271(a) and/or (b) by Watson’s Proposed Generic Bimatoprost Ophthalmic Solution, 0.03%)

118. Paragraphs 1 through 117 are incorporated herein as set forth above.

119. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma will engage in the commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% immediately and imminently upon approval of ANDA No. 203749.

120. The manufacture, use, offer for sale, sale, and/or importation of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of direct infringement of the ’655 patent.

121. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma intend to, and will, actively induce infringement of the ’655 patent when ANDA No. 203749 is approved, and plan and intend to, and will, do so immediately and imminently upon approval.

122. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma became aware of the ’655 patent no later than the date on which they jointly submitted ANDA No. 203749 to the FDA.

123. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma know or should know that their commercial manufacture, use, offer for sale, sale, and/or importation of their proposed generic Bimatoprost Ophthalmic Solution, 0.03% will actively induce the actual infringement of the ’655 patent.

124. The foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the ’655 patent and active inducement of infringement of the ’655 patent.

125. This Court may declare the rights and other legal relations of the parties pursuant to 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy between Allergan on the one hand and Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma on the other hand regarding Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma’s infringement of the ’655 patent and active inducement of infringement of the ’655 patent.

126. Allergan is entitled to a judgment declaring that the foregoing actions by Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma constitute and/or will constitute infringement of the ’655 patent and active inducement of infringement of the ’655 patent.

127. On information and belief, Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have acted with full knowledge of the ’655 patent and without a reasonable basis for believing that they would not be liable for infringing the ’655 patent and actively inducing the infringement of the ’655 patent.

128. Unless Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma are enjoined from infringing the ’655 patent and actively inducing infringement of the ’655 patent, Allergan will suffer irreparable injury for which damages are an inadequate remedy.

JURY TRIAL DEMAND

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

PRAYER FOR RELIEF

Plaintiffs respectfully pray for the following relief:

a. That judgment be entered that Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma have infringed the ’404, ’029, ’988, ’649, and ’655 patents under 35 U.S.C. § 271(e)(2)(A) by submitting ANDA No. 203749 under section 505(j) of the Federal Food, Drug, and Cosmetic Act, and that the commercial manufacture, use, offer for sale, or sale within the United States, and/or importation into the United States, of Watson’s proposed generic Bimatoprost Ophthalmic Solution, 0.03% will constitute an act of infringement of the ’404, ’029, ’988, ’649, and ’655 patents;

b. That an Order be issued under 35 U.S.C. § 271(e)(4)(A) that the effective date of any FDA approval of Watson’s ANDA No. 203749 shall be a date which is not earlier than the latest of the expiration dates of the ’404, ’029, ’988, ’649, and ’655 patents, as extended by any applicable period of exclusivity;

c. That an injunction be issued under 35 U.S.C. § 271(e)(4)(B) permanently enjoining Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma, their officers, agents, servants, employees, licensees, representatives, and attorneys, and all other persons acting or attempting to act in active concert or participation with them or acting on their behalf,

from engaging in the commercial manufacture, use, offer for sale, or sale within the United States, or importation into the United States, of any drug product covered by the ’404, ’029, ’988, ’649, and/or ’655 patents;

d. If Watson Pharmaceuticals, Watson Laboratories, or Watson Pharma attempts to engage in the commercial manufacture, use, offer for sale, sale, or importation of Watson’s generic product disclosed in ANDA No. 203749 prior to the expiration of the ’404, ’029, ’988, ’649, and/or ’655 patents, as extended by any applicable period of exclusivity, that a preliminary injunction be entered enjoining such conduct;

e. If Watson Pharmaceuticals, Watson Laboratories, or Watson Pharma attempts to engage in the commercial manufacture, use, offer for sale, sale, or importation of Watson’s generic product disclosed in ANDA No. 203749 prior to the expiration of the ’404, ’029, ’988, ’649, and/or ’655 patents, as extended by any applicable period of exclusivity, that judgment be entered awarding Plaintiffs damages or other monetary relief resulting from such infringement under 35 U.S.C. § 271(e)(4)(C), increased to treble the amount found or assessed together with interest pursuant to 35 U.S.C. § 284;

f. That judgment be entered declaring that Watson Pharmaceuticals, Watson Laboratories, and Watson Pharma will infringe the ’404, ’029, ’988, ’649, and ’655 patents and will actively induce infringement of the ’404, ’029, ’988, ’649, and ’655 patents if and when they engage in the commercial manufacture, use, offer for sale, sale, or importation of Watson’s generic product disclosed in ANDA No. 203749 prior to the expiration of the ’404, ’029, ’988, ’649, and/or ’655 patents, as extended by any applicable period of exclusivity;

g. That this is an exceptional case under 35 U.S.C. § 285, and that Plaintiffs be awarded reasonable attorneys’ fees and costs;

h. That an accounting be entered for infringing sales not presented at trial and that an award be issued by the Court of additional damages for any such infringing sales; and

i. That this Court award such other and further relief as it may deem just and proper.

Dated: March 30, 2012

Respectfully submitted,

/s/ Bryan G. Scott

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