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Attorneys for Plaintiff
APP PHARMACEUTICALS, LLC

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

APP PHARMACEUTICALS, LLC,)	Civil Action No.
)	
Plaintiff,)	
)	
v.)	
)	COMPLAINT FOR PATENT
AMERIDOSE, LLC,)	INFRINGEMENT
)	
Defendant.)	
)	
)	
)	
)	

Plaintiff APP Pharmaceuticals, LLC (“APP”), by way of Complaint against Ameridose, LLC (“Ameridose”), alleges as follows:

THE PARTIES

1. APP is a limited liability company organized and existing under the laws of the State of Delaware, having a principal place of business at 1501 East Woodfield Road, Suite 1300 East, Schaumburg, Illinois 60173.

2. On information and belief, Ameridose is a limited liability company organized and existing under the laws of the State of Massachusetts, having a principal place of business at 50 Fountain Street, Framingham, Massachusetts 01702.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338, and 35 U.S.C. § 1, *et. seq.*

4. On information and belief, Ameridose is subject to personal jurisdiction within this District because, among other things, Ameridose is licensed to sell and sells pharmaceuticals in New Jersey.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c), and 28 U.S.C. § 1400(b).

PATENTS-IN-SUIT

6. United States Patent No. 4,870,086 (“the ’086 patent”) (attached hereto as Exhibit A), entitled “Optically Pure Compound and a Process for Its Preparation,” was duly and legally issued by the United States Patent and Trademark Office (“USPTO”) on September 26, 1989.

7. United States Patent No. 5,670,524 (“the ’524 patent”) (attached hereto as Exhibit B), entitled “Methods and Compositions for the Treatment of Pain Utilizing Ropivacaine,” was duly and legally issued by the USPTO on September 23, 1997.

8. United States Patent No. 5,834,489 (“the ’489 patent”) (attached hereto as Exhibit C), entitled “Methods and Compositions for the Treatment of Pain Utilizing Ropivacaine,” was duly and legally issued by the USPTO on November 10, 1998.

9. APP owns all rights, title and interest in and to the ’086, ’524, and ’489 patents, including the right to sue and recover for patent infringement.

FIRST CLAIM FOR RELIEF

(Infringement of the ’086 Patent)

10. APP repeats and incorporates by reference, as if fully set forth herein, the allegations contained in paragraphs 1 through 9 above.

11. Ameridose has directly infringed the '086 patent under 35 U.S.C. § 271(a) by making, using, importing, offering for sale, and/or selling in the United States a product or products covered by one or more claims of the '086 patent.

12. Ameridose has indirectly infringed the '086 patent under 35 U.S.C. § 271(b) and (c) by intentionally and actively inducing, encouraging, contributing to, and aiding and abetting activities by others that infringe the '086 patent, and Ameridose has done so with knowledge that the activities by others will infringe the '086 patent.

13. Ameridose's infringement of the '086 patent is without the consent, authority of, or license from APP.

14. APP will be substantially and irreparably harmed if Ameridose is not enjoined from infringing the '086 patent.

15. On information and belief, Ameridose's infringement of the '086 patent has been and continues to be deliberate and willful, and such infringement will continue unless it is preliminarily and permanently enjoined by this Court.

16. As a consequence of Ameridose's infringement complained of herein, APP has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

SECOND CLAIM FOR RELIEF

(Infringement of the '524 Patent)

17. APP repeats and incorporates by reference, as if fully set forth herein, the allegations contained in paragraphs 1 through 16 above.

18. Ameridose has directly infringed the '524 patent under 35 U.S.C. § 271(a) by making, using, importing, offering for sale, and/or selling in the United States a product or products covered by one or more claims of the '524 patent.

19. Ameridose has indirectly infringed the '524 patent under 35 U.S.C. § 271(b) and (c) by intentionally and actively inducing, encouraging, contributing to, and aiding and abetting activities by others that infringe the '524 patent, and Ameridose has done so with knowledge that the activities by others will infringe the '524 patent.

20. Ameridose's infringement of the '524 patent is without the consent, authority of, or license from APP.

21. APP will be substantially and irreparably harmed if Ameridose is not enjoined from infringing the '524 patent.

22. On information and belief, Ameridose's infringement of the '524 patent has been and continues to be deliberate and willful, and such infringement will continue unless it is preliminarily and permanently enjoined by this Court.

23. As a consequence of Ameridose's infringement complained of herein, APP has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

THIRD CLAIM FOR RELIEF

(Infringement of the '489 Patent)

24. APP repeats and incorporates by reference, as if fully set forth herein, the allegations contained in paragraphs 1 through 23 above.

25. Ameridose has indirectly infringed the '489 patent under 35 U.S.C. § 271(b) and (c) by intentionally and actively inducing, encouraging, contributing to, and aiding and abetting activities by others that infringe the '489 patent, and Ameridose has done so with knowledge that the activities by others will infringe the '489 patent.

26. Ameridose's infringement of the '489 patent is without the consent, authority of, or license from APP.

27. APP will be substantially and irreparably harmed if Ameridose is not enjoined from infringing the '489 patent.

28. On information and belief, Ameridose's infringement of the '489 patent has been and continues to be deliberate and willful, and such infringement will continue unless it is preliminarily and permanently enjoined by this Court.

29. As a consequence of Ameridose's infringement complained of herein, APP has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff APP respectfully requests the following relief:

- A. Judgment that Ameridose has infringed one or more claims of the '086, '524, and/or '489 patents;
- B. A preliminary and permanent injunction restraining and enjoining Ameridose and its officers, agents, attorneys and employees, and those acting in privity or concert with Ameridose, from infringing one or more claims of the '086, '524, and/or '489 patents;
- C. Monetary damages for any acts of infringement by Ameridose;
- D. Pursuant to 35 U.S.C. § 284, an award increasing damages three times the amount found or assessed for infringement of the '086, '524 and/or '489 patents due to the willful and deliberate nature of the infringement by Ameridose;
- E. Judgment that this is an exceptional case and that APP is entitled to its reasonable attorneys fees pursuant to 35 U.S.C. § 285;
- F. The costs and expenses in this action; and

G. Such other and further relief as the Court may deem just and proper.

Dated: August 10, 2010

Respectfully submitted,

s/Anthony M. Gruppuso

Anthony M. Gruppuso

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