

FILED

2010 FEB -9 P 3:36

CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MISSION PHARMACAL COMPANY)
)
 Plaintiff,)
)
 v.)
)
 TRIGEN LABORATORIES, INC.)
)
 Defendants.)

CIVIL ACTION NO. _____ BY NOG
DEPUTY

JURY DEMAND

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ORIGINAL COMPLAINT

Plaintiff Mission Pharmacal Company ("Mission"), for its original complaint for patent infringement against defendant Trigen Laboratories, Inc. ("Trigen"), alleges as follows:

PARTIES

1 Mission is a Texas corporation with its principal place of business in San Antonio, Texas.

2 Upon information and belief, Trigen is a corporation organized under the laws of New Jersey and having its principal place of business at 2400 Main Street Extension, Suite 6, Sayreville, New Jersey 08872.

JURISDICTION AND VENUE

3 This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Jurisdiction is based on 28 U.S.C. §§ 1331 and 1338(a).

4 This Court has personal jurisdiction over Trigen by virtue of the fact that Trigen conducts business in the State of Texas, has availed itself of the rights and benefits of Texas law, has engaged in substantial and continuing contacts with the State, and has infringed Mission's patent rights through sales in Texas.

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

FACTS

6 Mission is the owner as assignee of United States Patent No. 6,521,247 (“the ‘247 patent”). The ‘247 patent lawfully issued on February 18, 2003. A copy of the ‘247 patent is attached hereto as Exhibit A.

7 The ‘247 patent claims, among other things, a nutritional supplement containing two different iron compounds, a method of alleviating iron deficiency, and a method of making a nutritional supplement.

8 Mission sells CitraNatal® prescription prenatal supplements covered by the ‘247 patent and used for combating iron deficiency anemia during pregnancy.

9 Upon information and belief, Trigen manufactures, imports, sells, and offers to sell, and induces others to sell, offer to sell and use, certain prenatal supplements including TARON A PRENATAL in this jurisdiction and elsewhere in the United States in competition with Mission.

10 On information and belief, the formulation, use, and method of making TARON A PRENATAL are covered by claims of the ‘247 patent.

COUNT I: **PATENT INFRINGEMENT**

11 Upon information and belief, Trigen has and will continue to directly infringe, and induce others to infringe, the ‘247 patent through Trigen’s manufacture, sale and distribution of certain nutritional supplements, including TARON A PRENATAL.

12 Mission has been damaged by Trigen’s infringement of the ‘247 patent, and its continued sales of TARON A PRENATAL has caused monetary damages, including but not

limited to lost profits. The injury to Mission is continuing and irreparable unless enjoined by this Court.

13 Upon information and belief, Trigen was aware of the '247 patent and has infringed the '247 despite an objectively high likelihood that its actions constituted infringement of a valid patent, thereby infringing willfully.

PRAYER FOR RELIEF

Plaintiff Mission Pharmacal Company respectfully requests the Court enter a judgment awarding Plaintiff the following:

- A. Permanent injunction against Trigen Laboratories, Inc. and others acting in concert with it from engaging in directly, or inducing others to engage in, the commercial manufacture, distribution, use, offer to sell, or sale of supplements as claimed by the '247 patent, including TARON A PRENATAL, and all other acts of infringement of the '247 patent, prior to the expiration of that patent;
- B. Damages in the form of lost profits, but not less than a reasonable royalty;
- C. Trebel damages based on a finding of willful infringement against Trigen under 35 U.S.C. § 284;
- D. Prejudgment and post-judgment interest;
- E. Mission's attorneys' fees under 35 U.S.C. § 285; and
- F. All other relief as the Court may deem appropriate.

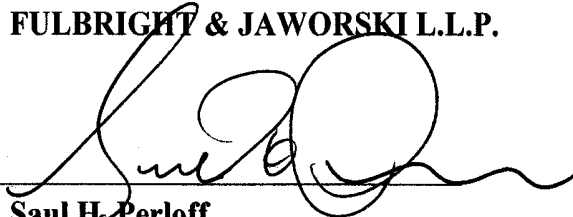
JURY DEMAND

Plaintiff Mission Pharmacal Company demands a trial by jury on all issues.

Dated: February 9, 2010

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.



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