IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PFIZER INC., WARNER-LAMBERT COMPANY LLC, C.P. PHARMACEUTICALS INTERNATIONAL C.V. and NORTHWESTERN UNIVERSITY,	)	
Plaintiffs,	)	
v.	)	Civil Action No. _____
COBALT LABORATORIES, INC. and COBALT PHARMACEUTICALS, INC.,	)	
Defendants.	)	

COMPLAINT

Plaintiffs Pfizer Inc., Warner-Lambert Company LLC, C.P. Pharmaceuticals International C.V. (collectively, "Pfizer"), and Northwestern University ("Northwestern," and together with Pfizer, "Plaintiffs"), by their undersigned attorneys, for their Complaint against Defendants Cobalt Laboratories, Inc. and Cobalt Pharmaceuticals, Inc. (collectively, "Cobalt") herein allege:

NATURE OF THE ACTION

1. This is an action for patent infringement under the patent laws of the United States, Title 35 of the United States Code, arising from Cobalt's filing of an Abbreviated New Drug Application ("ANDA") with the United States Food and Drug Administration ("FDA") seeking approval to market a generic version of Pfizer's pharmaceutical product Lyrica® prior to the expiration of United States Patent Nos. 6,197,819 ("the '819 patent") and 5,563,175 ("the '175 patent") which cover Lyrica® or its use.

THE PARTIES

2. Plaintiff Pfizer Inc. is a corporation organized and existing under the laws of the State of Delaware, having a place of business at 235 East 42nd Street, New York, New York.

3. Plaintiff Warner-Lambert Company LLC is a limited liability company organized and existing under the laws of the State of Delaware, having a place of business at 235 East 42nd Street, New York, New York. Pfizer Inc. is the ultimate parent of Warner-Lambert Company LLC.

4. Plaintiff C.P. Pharmaceuticals International C.V. is a limited partnership organized and existing under the laws of the Netherlands, having a place of business at 235 East 42nd Street, New York, New York. Pfizer Inc. is the ultimate parent of C.P. Pharmaceuticals International C.V.

5. Plaintiff Northwestern University is an Illinois corporation, having its principal place of business at 633 Clark Street, Evanston, Illinois.

6. On information and belief, Defendant Cobalt Laboratories, Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 24840 S. Tamiami Trail, Ste. 1, Bonita Springs, Florida. On information and belief, Cobalt Laboratories, Inc. is a sister company of Defendant Cobalt Pharmaceuticals, Inc.

7. On information and belief, Cobalt Pharmaceuticals, Inc. is a corporation organized and existing under the laws of Canada having a principal place of business at 6500 Kitmat Road, Mississauga, Ontario, Canada. On information and belief, Cobalt Pharmaceuticals, Inc., itself and through its sister company, Cobalt Laboratories, Inc., is in the business of making and selling generic pharmaceutical products, which it distributes in the State of Delaware and

throughout the United States. Cobalt Pharmaceuticals, Inc. has previously submitted to jurisdiction in this Court, and has availed itself of the jurisdiction of this Court by asserting counterclaims in lawsuits filed in the United States District Court for the District of Delaware.

JURISDICTION AND VENUE

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

9. This Court has personal jurisdiction over Cobalt by virtue of, inter alia, its presence in Delaware, having conducted business in Delaware, having availed itself of the rights and benefits of Delaware law, previously consenting to personal jurisdiction in this Court, availing itself of the jurisdiction of this Court, and having engaged in systematic and continuous contacts with the State of Delaware.

10. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PATENTS-IN-SUIT

11. On March 6, 2001, the United States Patent and Trademark Office issued the '819 patent, entitled "Gamma Amino Butyric Acid Analogs and Optical Isomers." At the time of its issue, the '819 patent was assigned to Northwestern, and Northwestern currently holds title to the '819 patent. A copy of the '819 patent is attached hereto as Exhibit A.

12. Northwestern has exclusively licensed the '819 patent to Warner-Lambert Company LLC.

13. On October 8, 1996, the United States Patent and Trademark Office issued the '175 patent, entitled "GABA and L-Glutamic Acid Analogs For Antiseizure Treatment." At the time of its issue, the '175 patent was assigned to Northwestern and Warner-Lambert

Company. Warner-Lambert Company subsequently became Warner-Lambert Company LLC. Northwestern and Warner-Lambert Company LLC currently hold title to the '175 patent. A copy of the '175 patent is attached hereto as Exhibit B.

14. Northwestern has exclusively licensed the '175 patent to Warner-Lambert Company LLC.

LYRICA®

15. Pfizer Inc., itself and through its wholly owned subsidiary C.P. Pharmaceuticals International C.V., holds approved New Drug Application Nos. 21-446, 21-723 and 21-724 ("the Lyrica NDAs") for pregabalin capsules in 25, 50, 75, 100, 150, 200, 225 and 300 mg dosage strengths, which are sold by Pfizer under the trade name Lyrica®.

16. Pursuant to 21 U.S.C. § 355(b)(1), and attendant FDA regulations, the '819 and '175 patents are listed in the FDA publication, "Approved Drug Products with Therapeutic Equivalence Evaluations" (the "Orange Book"), with respect to Lyrica®.

COBALT'S ANDAs

17. On information and belief, Cobalt submitted ANDA No. 91-221 ("the Cobalt ANDA") to the FDA, pursuant to 21 U.S.C. §§ 355(j), seeking approval to market pregabalin capsules in 25, 50, 75, 100, 150, 200, 225 and 300 mg dosage strengths. The pregabalin capsules described in the Cobalt ANDA are herein referred to as the "Cobalt Products."

18. The Cobalt ANDA refers to and relies upon the Lyrica NDAs and contains data that, according to Cobalt, demonstrate the bioequivalence of the Cobalt Products and Lyrica®.

19. Pfizer Inc. received from Cobalt a letter, dated April 10, 2009, (the "Cobalt Notification"), stating that Cobalt had included a certification in the Cobalt ANDA, pursuant to 21 U.S.C. §355(j)(2)(A)(vii)(IV), that the '819 and '175 patents are invalid, or will not be infringed by the commercial manufacture, use, or sale of the Cobalt Products ("the Paragraph IV Certification").

COUNT FOR INFRINGEMENT OF U.S. PATENT NO. 6,197,819

20. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1-19 of this Complaint.

21. Cobalt has infringed the '819 patent, pursuant to 35 U.S.C. § 271(e)(2)(A), by submitting the Cobalt ANDA, by which Cobalt seeks approval from the FDA to engage in the commercial manufacture, use, offer to sell, sale, or importation of the Cobalt Products prior to the expiration of the '819 patent.

22. Cobalt's commercial manufacture, use, offer to sell, or sale of the Cobalt Products within the United States, or importation of the Cobalt Products into the United States, during the term of the '819 patent would further infringe the '819 patent under 35 U.S.C. §§ 271(a), (b), and/or (c).

23. Plaintiffs will be substantially and irreparably harmed if Cobalt is not enjoined from infringing the '819 patent.

24. Plaintiffs have no adequate remedy at law.

25. This case is an exceptional one, and Plaintiffs are entitled to an award of attorneys' fees under 35 U.S.C. § 285.

COUNT FOR INFRINGEMENT OF U.S. PATENT NO. 5,563,175

26. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1-25 of this Complaint.

27. Cobalt has infringed the '175 patent, pursuant to 35 U.S.C. § 271(e)(2)(A), by submitting the Cobalt ANDA, by which Cobalt seeks approval from the FDA to engage in the commercial manufacture, use, offer to sell, sale, or importation of the Cobalt Products prior to the expiration of the '175 patent.

28. Cobalt's commercial manufacture, use, offer to sell, or sale of the Cobalt Products within the United States, or importation of the Cobalt Products into the United States during the term of the '175 patent would further infringe the '175 patent under 35 U.S.C. §§ 271(a), (b), and/or (c).

29. Plaintiffs will be substantially and irreparably harmed if Cobalt is not enjoined from infringing the '175 patent.

30. Plaintiffs have no adequate remedy at law.

31. This case is an exceptional one, and Plaintiffs are entitled to an award of attorneys' fees under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Pfizer and Northwestern pray for a judgment in their favor and against Defendants Cobalt Laboratories, Inc. and Cobalt Pharmaceuticals, Inc., and respectfully request the following relief:

A. A judgment declaring that Cobalt has infringed U.S. Patent No. 6,197,819;

B. A judgment declaring that Cobalt has infringed U.S. Patent No. 5,563,175;

C. A judgment pursuant to 35 U.S.C. § 271(e)(4)(B) preliminarily and permanently enjoining Cobalt, its officers, agents, servants, and employees, and those persons in active concert or participation with any of them, from manufacturing, using, offering to sell, or selling the Cobalt Products within the United States, or importing the Cobalt Products into the United States, prior to the expiration of the '819 and '175 patents;

D. A judgment ordering that pursuant to 35 U.S.C. § 271(e)(4)(A), the effective date of any approval of ANDA No. 91-221 under § 505(j) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 355(j)) shall not be earlier than the latest of the expiration dates of the '819 and '175 patents, including any extensions;

E. If Cobalt commercially manufactures, uses, offers to sell, or sells the Cobalt Products within the United States, or imports the Cobalt Products into the United States, prior to the expiration of any of the '819 and '175 patents, including any extensions, a judgment awarding Plaintiffs monetary relief together with interest;

F. Attorneys' fees in this action as an exceptional case pursuant to 35 U.S.C. § 285;

G. Costs and expenses in this action; and

H. Such other relief as the Court deems just and proper.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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April 29, 2009

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