

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WYETH,

Plaintiff,

v.

TORRENT PHARMACEUTICALS
LIMITED,
and
TORRENT PHARMA INC.,

Defendants.

C.A. No. _____

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Wyeth, for its Complaint against Defendants Torrent Pharmaceuticals Limited (“Torrent Ltd.”) and Torrent Pharma Inc. (“Torrent Inc.”) (referred to collectively as “Torrent”), hereby states as follows:

THE PARTIES

1. Plaintiff Wyeth is a Delaware corporation having its principal place of business at Five Giralda Farms, Madison, New Jersey 07940.
2. On information and belief, Torrent Ltd. is a company organized and existing under the laws of India, having its principal place of business at Torrent House, Off Ashram Road, Ahmedabad - 380 009, Gujarat, India.
3. On information and belief, Torrent Inc. is a corporation organized and existing under the laws of Delaware, having its principal place of business at 5380 Holiday Terrace, Suite 40, Kalamazoo, Michigan 49009.

4. On information and belief, Torrent Inc. sells numerous generic drugs, manufactured and supplied by Torrent Ltd., throughout the United States, including this judicial district.

5. On information and belief, Torrent Inc. is a wholly-owned subsidiary of Torrent Ltd.

6. On information and belief, the acts of Torrent Ltd. complained of herein were done at the direction of, with the authorization of, and/or with the cooperation, participation, and assistance of, and at least in part for the benefit of, Torrent Inc.

7. On information and belief, the acts of Torrent Inc. complained of herein were done at the direction of, with the authorization of, and/or with the cooperation, participation, and assistance of, and at least in part for the benefit of, Torrent Ltd.

NATURE OF THE ACTION

8. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 100 et seq., and in particular under 35 U.S.C. § 271(e). This action relates to Abbreviated New Drug Application (“ANDA”) No. 90-899 filed by Torrent with the United States Food and Drug Administration (“FDA”) for approval to market generic copies of Wyeth’s highly successful EFFEXOR[®] XR pharmaceutical products that are sold in the United States.

JURISDICTION AND VENUE

9. Subject matter jurisdiction is proper under 28 U.S.C. §§ 1331 and 1338(a).

10. On information and belief, Torrent Ltd. is in the business of formulating, manufacturing, and commercializing pharmaceutical products. Torrent Ltd. maintains a website at the uniform resource locator (URL) <http://www.torrentpharma.com/>. According to that website, www.torrentpharma.com/corporate%20profile.php, “The flagship company of Torrent group, Torrent Pharmaceuticals Limited, is a dominant player in the therapeutic areas of cardiovascular (CV) and central nervous system (CNS) and has achieved significant presence in gastro-intestinal, diabetology, anti-infective and pain management segments.” On information and belief, Torrent Ltd., either directly or through one or more of its wholly-owned subsidiaries, agents, or distributors, markets, sells, and/or distributes pharmaceutical products in this judicial district.

11. On information and belief, Torrent Inc., a wholly-owned subsidiary of Torrent Ltd., is in the business of marketing and selling Torrent generic drugs throughout the United States. On information and belief, Torrent Inc. markets and/or sells Torrent Ltd. drug products in this judicial district.

12. On information and belief, Torrent Ltd. and Torrent Inc. operate as an integrated, unitary business. For example, Torrent Ltd. states in its 2007-2008 Annual Report that Torrent Inc. is a wholly owned subsidiary of Torrent Ltd. and that those entities, together with other subsidiaries of Torrent Ltd., are collectively referred to as “the Group.”

13. On information and belief, Torrent Ltd.’s website, www.torrentpharma.com, serves as the website for all of Torrent Ltd.’s subsidiaries, including Torrent Inc. On Torrent Ltd.’s website, the activities of Torrent Inc. are attributed to Torrent Ltd. For example, Torrent Ltd.’s website, www.torrentpharma.com/int_operational.php, states: “After ascertaining its

credentials in the pharmaceutical industry of the country, Torrent Pharmaceuticals Limited began spreading its wings beyond India with thrust on becoming a global player in the international market.” That same webpage states that, “[t]o enable strategic differentiation, Torrent Pharma’s international business is segregated into five different zones,” including the United States of America, for which Torrent Inc. is identified as a contact for “general inquiries” and “business development.” Torrent Ltd.’s website also states, at www.torrentpharma.com/int_usa.php:

The world largest market for pharmaceuticals, USA, has always been on Torrent Pharma’s strategic radar. That intent has been converted in early 2004 into a concrete undertaking, a fully owned subsidiary called Torrent Pharma Inc. This was floated to serve a large and growing need for high quality yet affordable medicines in the USA.

14. On information and belief, Torrent Ltd. and Torrent Inc. acted in concert to develop the Torrent generic copies of Wyeth’s EFFEXOR[®] XR Capsules, and to seek approval from the FDA to sell Torrent’s generic copies of Wyeth’s EFFEXOR[®] XR Capsules throughout the United States and in this judicial district.

15. On information and belief, Torrent Ltd., through its authorized agent Torrent Inc., filed ANDA No. 90-899 with the FDA.

16. On information and belief, Torrent Ltd. stated in its Paragraph IV Notice letter to Wyeth that *it* (Torrent Ltd.) had submitted ANDA No. 90-899. On information and belief, Torrent Ltd. thus attributed the acts of Torrent Inc. to itself. On information and belief, Torrent Ltd. and Torrent Inc. thus acted jointly as a single entity in connection with preparing and filing ANDA No. 90-899. On further information and belief, Torrent Inc. acted as an agent of Torrent

Ltd. On further information and belief, in its Paragraph IV Notice letter to Wyeth, Torrent Ltd. specifically identified Torrent Inc. as its “U.S. Agent.”

17. On information and belief, and as previously noted, Torrent Inc. is a corporation organized and existing under the laws of Delaware. By virtue of its incorporation in Delaware, this Court has personal jurisdiction over Torrent Inc.

18. On information and belief, by virtue of, *inter alia*, Torrent Ltd.’s relationship with Torrent Inc. in connection with the preparation and/or filing of ANDA No. 90-899, Torrent Ltd.’s designation of Torrent Inc. as its agent for service of process, and their sales-related activities in Delaware, including but not limited to the substantial, continuous, and systematic distribution, marketing, and/or sales of pharmaceutical products to residents of Delaware, this Court has personal jurisdiction over Torrent Ltd.

19. On information and belief, separate and apart from its relationship with Torrent Inc., Torrent Ltd. has availed itself of the laws of the State of Delaware and engaged in a course of conduct in the State of Delaware, at least by incorporating its U.S. subsidiary, Torrent Inc., under Delaware law, and identifying the Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, as the registered agent of its subsidiary, Torrent Inc.

20. On information and belief, Torrent Ltd. and Torrent Inc. have previously been sued in this district and have not challenged personal jurisdiction. *See, e.g., Sanofi-Aventis v. Actavis South Atlantic LLC* (D. Del. No. 1:07-cv-00572-GMS); *Teva Pharma. Indus. Ltd. v. Torrent Pharma. Ltd.* (D. Del. No. 1:07-cv-00332-GMS).

21. On information and belief, by virtue of, *inter alia*, the revenue derived from the sales of Torrent's drug products throughout the United States, including Delaware, Torrent's continuous and systematic contacts with Delaware, including but not limited to the above-described contacts, and the actions on behalf of Torrent Ltd. in connection with ANDA No. 90-899 undertaken by its agent Torrent Inc., a Delaware corporation, this Court has general and specific personal jurisdiction over Torrent Ltd. and Torrent Inc. These activities satisfy due process and confer personal jurisdiction over Torrent Ltd. and Torrent Inc. consistent with the Delaware Long Arm Statute.

22. On information and belief, Torrent Ltd., directly and/or through its Delaware agent, Torrent Inc., caused tortious injury in Delaware to Wyeth, a Delaware corporation, by filing ANDA No. 90-899, further supporting specific and/or general jurisdiction over Torrent Ltd.

23. On information and belief, if Torrent Ltd. were not subject to the jurisdiction of the courts of general jurisdiction of the State of Delaware, it likewise would not be subject to the jurisdiction of the courts of general jurisdiction of any state, and accordingly is amenable to personal jurisdiction and service of process based on its aggregate contacts with the United States, including but not limited to the above-described contacts, as authorized by Federal Rule of Civil Procedure 4(k)(2).

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

BACKGROUND

25. Wyeth-Ayerst Laboratories (now known as Wyeth Pharmaceuticals), a division of Wyeth, is the holder of approved New Drug Application (NDA) No. 20-699 for EFFEXOR[®] XR Capsules, an extended release dosage form containing venlafaxine hydrochloride.

26. On information and belief, Torrent filed with the FDA ANDA No. 90-899 under 21 U.S.C. § 355(j), seeking approval to market Venlafaxine Hydrochloride 37.5, 75, and 150 mg Extended-Release Capsules (“Torrent’s Venlafaxine Hydrochloride ER Capsules”), which are generic copies of Wyeth’s EFFEXOR[®] XR Capsules, in 37.5, 75, and 150 mg dosage strengths, respectively.

27. By letter dated November 24, 2008, Torrent Ltd. notified Wyeth that it had filed ANDA No. 90-899, seeking approval to market Torrent’s Venlafaxine Hydrochloride ER Capsules, and that it was providing information to Wyeth pursuant to 21 U.S.C. § 355(j)(2)(B)(i) and (ii). Wyeth received that letter on or about December 1, 2008.

FIRST COUNT FOR INFRINGEMENT OF UNITED STATES PATENT NO. 6,274,171 B1

28. United States Patent No. 6,274,171 B1 (“the ’171 Patent”), entitled “Extended Release Formulation of Venlafaxine Hydrochloride,” was duly and legally issued by the United States Patent and Trademark Office on August 14, 2001. Wyeth (formerly known as American Home Products Corporation) is the owner by assignment of the ’171 Patent and has the right to sue for infringement thereof. A true and correct copy of the ’171 Patent is attached as Exhibit A.

29. On information and belief, Torrent filed ANDA No. 90-899 in order to obtain approval to market Torrent’s Venlafaxine Hydrochloride ER Capsules in the United States

before the expiration of the '171 Patent. On information and belief, Torrent also filed with the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (Section 505(j)(2)(A)(vii)(IV) of the Federal Food, Drug and Cosmetics Act), a certification alleging that the claims of the '171 Patent are invalid and/or not infringed.

30. Under 35 U.S.C. § 271(e)(2)(A), Torrent's submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, or sale of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration date of the '171 Patent constitutes infringement of one or more claims of the '171 Patent, either literally or under the doctrine of equivalents.

31. Upon FDA approval of Torrent's ANDA No. 90-899, Torrent will infringe the '171 Patent, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling, and/or importing Torrent's Venlafaxine Hydrochloride ER Capsules in the United States, and by actively inducing and contributing to infringement by others under 35 U.S.C. §§ 271(b) and (c), unless this Court orders that the effective date of any FDA approval of Torrent's ANDA shall be no earlier than the expiration date of the '171 Patent and any additional periods of exclusivity.

32. On information and belief, Torrent's Venlafaxine Hydrochloride ER Capsules, when offered for sale, sold, and/or imported, and when used as directed, would be used in a manner that would directly infringe at least one of the claims of the '171 Patent, either literally or under the doctrine of equivalents.

33. On information and belief, the use of Torrent's Venlafaxine Hydrochloride ER Capsules constitutes a material part of at least one of the claims of the '171 Patent; Torrent

knows that its Venlafaxine Hydrochloride ER Capsules are especially made or adapted for use in infringing at least one of the claims of the '171 Patent, either literally or under the doctrine of equivalents; and Torrent's Venlafaxine Hydrochloride ER Capsules are not staple articles of commerce or commodities of commerce suitable for substantial noninfringing use.

34. On information and belief, the offering to sell, sale, and/or importation of Torrent's Venlafaxine Hydrochloride ER Capsules would contributorily infringe at least one of the claims of the '171 Patent, either literally or under the doctrine of equivalents.

35. On information and belief, Torrent had knowledge of the '171 Patent and, by its promotional activities and package insert for Torrent's Venlafaxine Hydrochloride ER Capsules, knows or should know that it will aid and abet another's direct infringement of at least one of the claims of the '171 Patent, either literally or under the doctrine of equivalents.

36. On information and belief, the offering to sell, sale, and/or importation of Torrent's Venlafaxine Hydrochloride ER Capsules would actively induce infringement of at least one of the claims of the '171 Patent, either literally or under the doctrine of equivalents.

37. Wyeth will be substantially and irreparably harmed by Torrent's infringing activities unless those activities are enjoined by this Court. Wyeth has no adequate remedy at law.

**SECOND COUNT FOR INFRINGEMENT
OF UNITED STATES PATENT NO. 6,403,120 B1**

38. United States Patent No. 6,403,120 B1 ("the '120 Patent"), entitled "Extended Release Formulation of Venlafaxine Hydrochloride," was duly and legally issued by the United States Patent and Trademark Office on June 11, 2002. Wyeth is the owner by assignment of the

'120 Patent and has the right to sue for infringement thereof. A true and correct copy of the '120 Patent is attached as Exhibit B.

39. On information and belief, Torrent filed ANDA No. 90-899 in order to obtain approval to market Torrent's Venlafaxine Hydrochloride ER Capsules in the United States before the expiration of the '120 Patent. On information and belief, Torrent also filed with the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV), a certification alleging that the claims of the '120 Patent are invalid and/or not infringed.

40. Under 35 U.S.C. § 271(e)(2)(A), Torrent's submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, or sale of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration date of the '120 Patent constitutes infringement of one or more claims of the '120 Patent, either literally or under the doctrine of equivalents.

41. Upon FDA approval of Torrent's ANDA No. 90-899, Torrent will infringe the '120 Patent, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling, and/or importing Torrent's Venlafaxine Hydrochloride ER Capsules in the United States, and by actively inducing and contributing to infringement by others under 35 U.S.C. §§ 271(b) and (c), unless this Court orders that the effective date of any FDA approval of Torrent's ANDA shall be no earlier than the expiration of the '120 Patent and any additional periods of exclusivity.

42. On information and belief, Torrent's Venlafaxine Hydrochloride ER Capsules, when offered for sale, sold, and/or imported, and when used as directed, would be used in a

manner that would directly infringe at least one of the claims of the '120 Patent, either literally or under the doctrine of equivalents.

43. On information and belief, the use of Torrent's Venlafaxine Hydrochloride ER Capsules constitutes a material part of at least one of the claims of the '120 Patent; Torrent knows that Torrent's Venlafaxine Hydrochloride ER Capsules are especially made or adapted for use in infringing at least one of the claims of the '120 Patent, either literally or under the doctrine of equivalents; and Torrent's Venlafaxine Hydrochloride ER Capsules are not staple articles of commerce or commodities of commerce suitable for substantial noninfringing use.

44. On information and belief, the offering to sell, sale, and/or importation of Torrent's Venlafaxine Hydrochloride ER Capsules would contributorily infringe at least one of the claims of the '120 Patent, either literally or under the doctrine of equivalents.

45. On information and belief, Torrent had knowledge of the '120 Patent and, by its promotional activities and package insert for Torrent's Venlafaxine Hydrochloride ER Capsules, knows or should know that it will aid and abet another's direct infringement of at least one of the claims of the '120 Patent, either literally or under the doctrine of equivalents.

46. On information and belief, the offering to sell, sale, and/or importation of Torrent's Venlafaxine Hydrochloride ER Capsules would actively induce infringement of at least one of the claims of the '120 Patent, either literally or under the doctrine of equivalents.

47. Wyeth will be substantially and irreparably harmed by Torrent's infringing activities unless those activities are enjoined by this Court. Wyeth has no adequate remedy at law.

**THIRD COUNT FOR INFRINGEMENT
OF UNITED STATES PATENT NO. 6,419,958 B2**

48. United States Patent No. 6,419,958 B2 (“the ’958 Patent”), entitled “Extended Release Formulation of Venlafaxine Hydrochloride,” was duly and legally issued by the United States Patent and Trademark Office on July 16, 2002. Wyeth is the owner by assignment of the ’958 Patent and has the right to sue for infringement thereof. A true and correct copy of the ’958 Patent is attached as Exhibit C.

49. On information and belief, Torrent filed ANDA No. 90-899 in order to obtain approval to market Torrent’s Venlafaxine Hydrochloride ER Capsules in the United States before the expiration of the ’958 Patent. On information and belief, Torrent also filed with the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV), a certification alleging that the claims of the ’958 Patent are invalid and/or not infringed.

50. Under 35 U.S.C. § 271(e)(2)(A), Torrent’s submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, or sale of Torrent’s Venlafaxine Hydrochloride ER Capsules before the expiration date of the ’958 Patent constitutes infringement of one or more claims of the ’958 Patent, either literally or under the doctrine of equivalents.

51. Upon FDA approval of Torrent’s ANDA No. 90-899, Torrent will infringe the ’958 Patent, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling, and/or importing Torrent’s Venlafaxine Hydrochloride ER Capsules in the United States, and by actively inducing and contributing to infringement by others under 35 U.S.C. §§ 271(b) and (c), unless this Court orders that the effective date of any FDA approval of

Torrent's ANDA shall be no earlier than the expiration date of the '958 Patent and any additional periods of exclusivity.

52. On information and belief, Torrent's Venlafaxine Hydrochloride ER Capsules, when offered for sale, sold, and/or imported, and when used as directed, would be used in a manner that would directly infringe at least one of the claims of the '958 Patent, either literally or under the doctrine of equivalents.

53. On information and belief, the use of Torrent's Venlafaxine Hydrochloride ER Capsules constitutes a material part of at least one of the claims of the '958 Patent; Torrent knows that its Venlafaxine Hydrochloride ER Capsules are especially made or adapted for use in infringing at least one of the claims of the '958 Patent, either literally or under the doctrine of equivalents; and Torrent's Venlafaxine Hydrochloride ER Capsules are not staple articles of commerce or commodities of commerce suitable for substantial noninfringing use.

54. On information and belief, the offering to sell, sale, and/or importation of Torrent's Venlafaxine Hydrochloride ER Capsules would contributorily infringe at least one of the claims of the '958 Patent, either literally or under the doctrine of equivalents.

55. On information and belief, Torrent had knowledge of the '958 Patent and, by its promotional activities and package insert for Torrent's Venlafaxine Hydrochloride ER Capsules, will know or should know that it will aid and abet another's direct infringement of at least one of the claims of the '958 Patent, either literally or under the doctrine of equivalents.

56. On information and belief, the offering to sell, sale, and/or importation of Torrent's Venlafaxine Hydrochloride ER Capsules would actively induce infringement of at least one of the claims of the '958 Patent, either literally or under the doctrine of equivalents.

57. Wyeth will be substantially and irreparably harmed by Torrent's infringing activities unless those activities are enjoined by this Court. Wyeth has no adequate remedy at law.

**FOURTH COUNT FOR INFRINGEMENT OF
UNITED STATES PATENT NOS. 6,274,171 B1, 6,403,120 B1, AND 6,419,958 B2**

58. Wyeth incorporates by reference paragraphs 1 through 57 of this Complaint as if fully set forth herein.

59. On information and belief, Torrent Ltd. actively and knowingly caused to be submitted, assisted with, participated in, contributed to, and/or directed the submission of ANDA No. 90-899 to the FDA. On information and belief, Torrent Ltd. was aware of the '171 Patent, the '120 Patent, and the '958 Patent when it engaged in these knowing and purposeful activities referred to above.

60. Under 35 U.S.C. §§ 271(b) and 271(e)(2)(A), Torrent Ltd. induced the infringement of the '171 Patent, the '120 Patent, and the '958 Patent by actively and knowingly aiding and abetting the submission to the FDA of ANDA No. 90-899. The filing of the ANDA by Torrent Ltd. and/or Torrent Inc. constitutes direct infringement under 35 U.S.C. § 271(e). Torrent Ltd.'s active and knowing aiding and abetting Torrent Inc. in the filing of ANDA No. 90-899 constitute induced infringement.

61. Wyeth will be substantially and irreparably harmed by Torrent Ltd.'s infringing activities unless those activities are enjoined by this Court. Wyeth has no adequate remedy at law.

**FIFTH COUNT FOR INFRINGEMENT OF
UNITED STATES PATENT NOS. 6,274,171 B1, 6,403,120 B1, AND 6,419,958 B2**

62. Wyeth incorporates by reference paragraphs 1 through 57 of this Complaint as if fully set forth herein.

63. On information and belief, Torrent Inc. actively and knowingly caused to be submitted, assisted with, participated in, contributed to, and/or directed the submission of ANDA No. 90-899 to the FDA. On information and belief, Torrent Inc. was aware of the '171 Patent, the '120 Patent, and the '958 Patent when it engaged in these knowing and purposeful activities referred to above.

64. Under 35 U.S.C. §§ 271(b) and 271(e)(2)(A), Torrent Inc. induced the infringement of the '171 Patent, the '120 Patent, and the '958 Patent by actively and knowingly aiding and abetting the submission to the FDA of ANDA No. 90-899. The filing of the ANDA by Torrent Inc. and/or Torrent Ltd. constitutes direct infringement under 35 U.S.C. § 271(e). Torrent Inc.'s active and knowing aiding and abetting Torrent Ltd. in the filing of ANDA No. 90-899 constitute induced infringement.

65. Wyeth will be substantially and irreparably harmed by Torrent Inc.'s infringing activities unless those activities are enjoined by this Court. Wyeth has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Wyeth respectfully requests that this Court enter judgment in its favor as follows:

(1) declaring that, under 35 U.S.C. § 271(e)(2)(A), Torrent's submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or sale in, or importation into the United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '171 Patent was an act of infringement of the '171 Patent;

(2) declaring that, under 35 U.S.C. §§ 271(e)(2)(A) and 271(b), Torrent Ltd.'s active and knowing aiding and abetting of the submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or sale in, or importation into the United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '171 Patent was an act of induced infringement of the '171 Patent;

(3) declaring that, under 35 U.S.C. §§ 271(e)(2)(A) and 271(b), Torrent Inc.'s active and knowing aiding and abetting of the submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or sale in, or importation into the United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '171 Patent was an act of induced infringement of the '171 Patent;

(4) declaring that Torrent's commercial manufacture, use, offer for sale, or sale in, or importation into the United States by Torrent of Torrent's Venlafaxine Hydrochloride ER Capsules would constitute infringement of the '171 Patent;

(5) declaring that, under 35 U.S.C. § 271(e)(2)(A), Torrent's submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or

sale in, or importation into the United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '120 Patent was an act of infringement of the '120 Patent;

(6) declaring that, under 35 U.S.C. §§ 271(e)(2)(A) and 271(b), Torrent Ltd.'s active and knowing aiding and abetting of the submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or sale in, or importation into the United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '120 Patent was an act of induced infringement of the '120 Patent;

(7) declaring that, under 35 U.S.C. §§ 271(e)(2)(A) and 271(b), Torrent Inc.'s active and knowing aiding and abetting of the submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or sale in, or importation into the United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '120 Patent was an act of induced infringement of the '120 Patent;

(8) declaring that Torrent's commercial manufacture, use, offer for sale or sale in, or importation into the United States by Torrent of Torrent's Venlafaxine Hydrochloride ER Capsules would constitute infringement of the '120 Patent;

(9) declaring that, under 35 U.S.C. § 271(e)(2)(A), Torrent's submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or sale in, or importation into the United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '958 Patent was an act of infringement of the '958 Patent;

(10) declaring that, under 35 U.S.C. §§ 271(e)(2)(A) and 271(b), Torrent Ltd.'s active and knowing aiding and abetting of the submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or sale in, or importation into the

United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '958 Patent was an act of induced infringement of the '958 Patent;

(11) declaring that, under 35 U.S.C. §§ 271(e)(2)(A) and 271(b), Torrent Inc.'s active and knowing aiding and abetting of the submission to the FDA of ANDA No. 90-899 to obtain approval for the commercial manufacture, use, offer for sale, or sale in, or importation into the United States of Torrent's Venlafaxine Hydrochloride ER Capsules before the expiration of the '958 patent was an act of induced infringement of the '958 Patent;

(12) declaring that Torrent's commercial manufacture, use, offer for sale, or sale in, or importation into the United States by Torrent of Torrent's Venlafaxine Hydrochloride ER Capsules would constitute infringement of the '958 Patent;

(13) ordering that the effective date of any FDA approval of Torrent's Venlafaxine Hydrochloride ER Capsules shall be no earlier than the expiration date of the '171 Patent and any additional dates of exclusivity, in accordance with 35 U.S.C. § 271(e)(4)(A);

(14) ordering that the effective date of any FDA approval of Torrent's Venlafaxine Hydrochloride ER Capsules shall be no earlier than the expiration date of the '120 Patent and any additional dates of exclusivity, in accordance with 35 U.S.C. § 271(e)(4)(A);

(15) ordering that the effective date of any FDA approval of Torrent's Venlafaxine Hydrochloride ER Capsules shall be no earlier than the expiration date of the '958 Patent and any additional dates of exclusivity, in accordance with 35 U.S.C. § 271(e)(4)(A);

(16) enjoining Torrent and all persons acting in concert with Torrent, from commercially manufacturing, using, offering for sale, or selling Torrent's Venlafaxine Hydrochloride ER Capsules within the United States or importing into the United States

Torrent's Venlafaxine Hydrochloride ER Capsules, until the expiration of the '171 Patent, in accordance with 35 U.S.C. § 271(e)(4)(B);

(17) enjoining Torrent and all persons acting in concert with Torrent from commercially manufacturing, using, offering for sale or selling Torrent's Venlafaxine Hydrochloride ER Capsules within the United States or importing into the United States Torrent's Venlafaxine Hydrochloride ER Capsules until the expiration of the '120 Patent, in accordance with 35 U.S.C. § 271(e)(4)(B);

(18) enjoining Torrent and all persons acting in concert with Torrent from commercially manufacturing, using, offering for sale, or selling Torrent's Venlafaxine Hydrochloride ER Capsules within the United States or importing into the United States Torrent's Venlafaxine Hydrochloride ER Capsules, until the expiration of the '958 Patent, in accordance with 35 U.S.C. § 271(e)(4)(B);

(19) enjoining Torrent and all persons acting in concert with Torrent from seeking, obtaining, or maintaining approval of Torrent's ANDA No. 90-899 until the expiration of the '171 Patent;

(20) enjoining Torrent and all persons acting in concert with Torrent from seeking, obtaining, or maintaining approval of Torrent's ANDA No. 90-899 until the expiration of the '120 Patent;

(21) enjoining Torrent and all persons acting in concert with Torrent from seeking, obtaining, or maintaining approval of Torrent's ANDA No. 90-899 until the expiration of the '958 Patent;

- (22) declaring this to be an exceptional case and awarding Wyeth its attorney fees under 35 U.S.C. § 285;
- (23) awarding Wyeth its costs and expenses in this action; and
- (24) awarding Wyeth any further and additional relief as this Court deems just and proper.

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