

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

JOHNSON MATTHEY INC.)	
)	
Plaintiff,)	Civil Action No. 2:07-cv-260
)	
v.)	
)	
NOVEN PHARMACEUTICALS, INC.)	DEMAND FOR JURY TRIAL
)	
Defendant.)	
)	

ORIGINAL COMPLAINT

Plaintiff Johnson Matthey Inc. ("Johnson Matthey") for its Original Complaint for patent infringement against Defendant, Noven Pharmaceuticals, Inc. ("Noven" or "Defendant"), hereby alleges as follows:

THE PARTIES

1. Johnson Matthey is a corporation duly organized and existing under the laws of Pennsylvania, having a principal place of business in Wayne, Pennsylvania.
2. Upon information and belief, Noven is a corporation duly organized and existing under the laws of Delaware, having a principal place of business at 11960 SW 144th St., Miami, Florida, 33186.

JURISDICTION

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*

5. This Court has personal jurisdiction over the Defendant because, upon information and belief, the Defendant has established minimum contacts with the forum such that the exercise of jurisdiction over the Defendant will not offend traditional notions of fair play and substantial justice.

VENUE

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

7. Upon information and belief, the Defendant has committed acts of infringement giving rise to this action within this judicial district and regularly conducts business in this district.

INFRINGEMENT OF U.S. PATENT NO. 6,096,760

8. On August 1, 2000, United States Patent No. 6,096,760 ("760 Patent"), entitled "Solid α -Phenyl-2-Piperidine Acetate Free Base, Its Preparation And Use In Medicine," was duly and legally issued in the name of Chester Sapino. A true and correct copy of the '760 Patent is attached hereto as Exhibit 1.

9. Johnson Matthey Inc. is the assignee of the '760 Patent and continues to hold all right, title, and interest therein.

10. Upon information and belief, the Defendant has infringed and continues to infringe the '760 Patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation and/or offer for sale of methyl α -phenyl-2-piperidine acetate free base and/or pharmaceutical formulations containing methyl α -phenyl-2-piperidine acetate free base; the practice of the methods and processes claimed in the '760 Patent; the inducement of and contribution to the manufacture, use, sale, importation, and/or offer for sale of such products; and

the inducement of and contribution to the practice of the methods and processes claimed in the '760 patent.

13. The Defendant is liable for infringement of the '760 Patent pursuant to 35 U.S.C. § 271.

14. The Defendant's acts of infringement have caused damage to Johnson Matthey, and Johnson Matthey is entitled to recover from the Defendant the damages sustained by Johnson Matthey as a result of the Defendant's wrongful acts in an amount subject to proof at trial.

15. The Defendant's infringement of the '760 Patent will continue to harm Johnson Matthey's business, causing irreparable harm, for which there is no adequate remedy at law, unless the Defendant is enjoined by this Court.

16. Upon information and belief, the Defendant's infringement of the '760 Patent is willful and deliberate, justifying the assessment of treble damages pursuant to 35 U.S.C. § 284, and this is an exceptional case, justifying the awarding of attorneys' fees and costs pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Johnson Matthey prays for judgment against the Defendant and seeks relief from the Defendant as follows:

(a) For judgment that the '760 Patent has been and continues to be infringed by the Defendant;

(b) For preliminary and permanent injunctions enjoining the aforesaid acts of infringement by the Defendant, its officers, agents, servants, employees, attorneys, parent and subsidiary entities, assigns and successors in interest, and those persons acting in concert with them, including related individuals and entities, customers, representatives, distributors, and dealers;

(c) For an accounting of all damages sustained by Johnson Matthey as the result of the acts of infringement by the Defendant;

(d) For the award to Johnson Matthey of damages so ascertained, together with prejudgment interest as provided by law;

(e) For an award of enhanced damages pursuant to 35 U.S.C. § 284;

(f) For judgment that this case is exceptional and an award of attorneys' fees pursuant to 35 U.S.C. § 285;

(g) For an award of all costs of suit; and

(h) For such other relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff, Johnson Matthey Inc., demands a trial
by jury.

Dated: June 19, 2007

Respectfully submitted,



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