

4. This Court has personal jurisdiction over Acella by virtue of the fact that Acella 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, along with its reexamination certificate, is attached as Exhibit A.

7. The '247 Patent claims, among other things, a nutritional supplement containing both a slowly dissolving and a rapidly dissolving iron compound, a method of alleviating iron deficiency with the dual iron nutritional supplement, and a method of making the dual iron nutritional supplement.

8. Mission sells CitraNatal® prescription prenatal supplements covered by the '247 Patent and used for combating iron deficiency anemia before, during, and after pregnancy.

9. Upon information and belief, Acella manufactures, sells, and offers to sell, and induces its pharmacy customers to sell and offer for sell, certain nutritional supplements, including Prenaisance Promise, Prenaisance DHA, Prenaisance 90 DHA, FE 90 Plus, and Infanate Plus (the "Accused Products") in this District and elsewhere in the United States in competition with Mission.

10. On information and belief, the formulation, use, and method of making the Accused Products are covered by one or more claims of the '247 Patent.

11. Mission marks its products with the '247 patent. On information and belief, Acella knew about the '247 patent when it copied the ingredients of: 1) CitraNatal Assure for its

Prenaisance Promise product, 2) CitraNatal 90 DHA for its Prenaisance 90 DHA product, 3) CitraNatal DHA for its Prenaisance DHA product, 4) Ferralet 90 for its FE 90 Plus product, and 5) CitraNatal Harmony for its Infanate Plus product.

COUNT I

PATENT INFRINGEMENT

12. Upon information and belief, Acella has and will continue to directly infringe, and induce its pharmacy customers to infringe, the '247 Patent through Acella's manufacture, marketing, sale, and distribution of certain nutritional supplements, including the Accused Products.

13. Mission has been damaged by Acella's infringement of the '247 Patent, and Acella's continued sales of the Accused Products have caused monetary damages, including but not limited to lost profits. The injury to Mission is continuing and irreparable unless enjoined by this Court.

14. Upon information and belief, Acella was aware of the '247 patent, has infringed despite an objectively high likelihood that its actions constitute infringement of a valid patent, and is therefore infringing willfully.

PRAYER FOR RELIEF

Plaintiff Mission respectfully requests that the Court enter a judgment awarding it the following:

A. A permanent injunction against Acella and others acting in concert with it from engaging in, 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 the Accused Products, and all other acts of infringement of the '247 patent, prior to the expiration of that patent;

B. Actual damages, but not less than a reasonable royalty;

- C. Treble damages based on a finding of willful infringement against Acella under 35 U.S.C. § 284.
- D. Prejudgment and post-judgment interest;
- E. Mission's attorney fees under 35 U.S.C. § 285; and
- F. All other relief as the Court may deem appropriate.

JURY DEMAND

Plaintiff Mission demands a trial by jury on all triable issues of fact.

Dated: September 30, 2014

By /s/ Charles B. Walker, Jr.

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