

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

TEVA PHARMACEUTICALS USA, INC.,)
TEVA PHARMACEUTICAL)
INDUSTRIES LTD., TEVA)
NEUROSCIENCE, INC., and YEDA)
RESEARCH AND DEVELOPMENT CO.,)
LTD.,)

Plaintiffs,)

v.)

C.A. No. _____

MYLAN PHARMACEUTICALS INC.,)
MYLAN INC. and NATCO PHARMA)
LTD.,)

Defendants.)

COMPLAINT

Plaintiffs Teva Pharmaceuticals USA, Inc., Teva Pharmaceutical Industries Ltd., Teva Neuroscience, Inc. and Yeda Research and Development Co., Ltd. (collectively “Plaintiffs” or “Teva”) bring this action for patent infringement and declaratory judgment against Defendants Mylan Pharmaceuticals Inc., Mylan Inc., and Natco Pharma Ltd. (collectively “Defendants” or “Mylan”).

NATURE OF THE ACTION

1. This is an action by Teva for infringement of United States Patent No. 8,232,250 (“the ’250 patent”) and United States Patent No. 8,399,413 (“the ’413 patent”). This action arises out of the filing of an Abbreviated New Drug Application (“ANDA”) by Mylan seeking approval by the United States Food and Drug Administration (“FDA”) to sell generic versions of COPAXONE[®] 40 mg/mL injection, Teva’s innovative treatment for patients with

relapsing-remitting forms of multiple sclerosis, prior to the expiration of the '250 and '413 patents.

THE PARTIES

Teva

2. Teva Pharmaceuticals USA, Inc. ("Teva USA") is a Delaware corporation with its principal place of business at 1090 Horsham Road, North Wales, Pennsylvania 19454-1090.

3. Teva Pharmaceutical Industries Ltd. ("Teva Ltd.") is an Israeli company with its principal place of business at 5 Basel Street, P.O. Box 3190, Petah Tikva, 49131, Israel.

4. Teva Neuroscience, Inc. ("Teva Neuroscience"), is a Delaware corporation with its principal place of business at 901 E. 104th Street, Suite 900, Kansas City, Missouri 64131.

5. Yeda Research and Development Co. Ltd. ("Yeda") is an Israeli company with its principal place of business is P.O. Box 95, Rehovot, 76100, Israel.

Mylan

6. Upon information and belief, Mylan Pharmaceuticals Inc. is a corporation organized and existing under the laws of West Virginia with its principal place of business at 781 Chestnut Ridge Rd., Morgantown, WV 26505.

7. Mylan Pharmaceuticals Inc. is a wholly-owned subsidiary of Mylan Inc.

8. Upon information and belief, Mylan Inc. is a corporation organized and existing under the laws of Pennsylvania with its principal place of business at 1500 Corporate Drive, Canonsburg, PA 15317.

9. Upon information and belief, Natco Pharma Ltd. is an Indian company with its principal place of business at Natco House, Road No. 2, Banjara Hills, Hyderabad 500 033, India.

JURISDICTION AND VENUE

10. This action for patent infringement arises under 35 U.S.C. § 271.

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

12. Venue is proper in this Judicial District under 28 U.S.C. § 1400(b) and § 1391.

13. Upon information and belief, this Court has personal jurisdiction over Defendant Mylan Pharmaceuticals Inc.

14. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. has availed itself of this forum by bringing a civil action in this forum. *See, e.g., Mylan Pharmaceuticals Inc. et al. v. Eurand Inc. et al.*, C.A. No. 10-00306 (D. Del.); *Mylan Pharmaceuticals Inc. et al. v. Kremers Urban Development Co.*, C.A. No. 02-01628 (D. Del.); *Mylan Pharmaceuticals Inc. et al. v. Galderma Laboratories Inc. et al.*, C.A. No. 10-00892 (D. Del.); *DuPont Merck Pharmaceutical Co. et al. v. Bristol-Myers Squibb Co. et al.*, C.A. No. 95-00290 (D. Del.).

15. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. is registered to conduct business with the State of Delaware and maintains as a registered agent Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

16. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. is registered pursuant to Del. Code Ann. Tit. 24, § 2540 to distribute its generic pharmaceutical products in Delaware.

17. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. holds current and valid “Distributor/Manufacturer CSR” and “Pharmacy-Wholesale” licenses from the Delaware Board of Pharmacy.

18. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. markets, distributes and/or sells generic drugs throughout the United States and within the State of Delaware.

19. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. has engaged in and maintained systematic and continuous business contacts within the State of Delaware, and has purposefully availed itself of the benefits and protections of the laws of Delaware.

20. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. has committed, or aided, abetted, contributed to and/or participated in the commission of the tortious action of patent infringement that has led to foreseeable harm and injury to Teva, which manufactures COPAXONE®, for sale and use throughout the United States, including the State of Delaware.

21. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. has applied for FDA approval to market and sell a generic version of COPAXONE® 40 mg/mL throughout the United States, including in Delaware.

22. Upon information and belief, this Court also has personal jurisdiction over Defendant Mylan Pharmaceuticals Inc. because it previously has been sued in this district without challenging this Court's assertion of personal jurisdiction over it and availed itself of this forum by asserting counterclaims for the purpose of litigating a patent infringement dispute. *See, e.g., Alcon Research Ltd. v. Mylan Inc. et al.*, C.A. No. 13-01332 (D. Del.); *UCB Inc. et al. v. Mylan Inc. et al.*, C.A. No. 13-01214 (D. Del.); *Forest Laboratories Inc. et al v. Mylan Inc. et al.*, C.A. No. 13-01605 (D. Del.).

23. Upon information and belief, Defendant Mylan Pharmaceuticals Inc.'s systematic and continuous business contacts within Delaware render it at home in Delaware.

24. Upon information and belief, Defendant Mylan Pharmaceuticals Inc. consented to jurisdiction in Delaware by registering to conduct business with the State of Delaware and maintaining a registered agent in Delaware.

25. Upon information and belief, this Court has personal jurisdiction over Defendant Mylan Pharmaceuticals Inc. for the reasons stated herein, including, *inter alia*, Defendant Mylan Pharmaceuticals Inc.'s activities in the forum, activities directed at the forum, significant contacts with the forum, and consent, all of which render Defendant Mylan Pharmaceuticals Inc. at home in the forum.

26. Upon information and belief, this Court has personal jurisdiction over Defendant Mylan Inc.

27. Upon information and belief, Defendant Mylan Inc. has availed itself of this forum by bringing a civil action in this forum. *See, e.g., Mylan Pharmaceuticals Inc. et al. v. Eurand Inc. et al.*, C.A. No. 10-00306 (D. Del.); *Mylan Pharmaceuticals Inc. et al. v. Kremers Urban Development Co.*, C.A. No. 02-01628 (D. Del.); *Mylan Pharmaceuticals Inc. et al. v. Galderma Laboratories Inc. et al.*, C.A. No. 10-00892 (D. Del.); *DuPont Merck Pharmaceutical Co. et al. v. Bristol-Myers Squibb Co. et al.*, C.A. No. 95-00290 (D. Del.).

28. Upon information and belief, Defendant Mylan Inc. (through its wholly-owned subsidiary Defendant Mylan Pharmaceuticals Inc.) markets, distributes and/or sells generic drugs throughout the United States and within the State of Delaware.

29. Upon information and belief, Defendant Mylan Inc. has engaged in and maintained systematic and continuous business contacts within the State of Delaware, and has purposefully availed itself of the benefits and protections of the laws of Delaware.

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