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Celgene Corporation and
Children’s Medical Center Corporation*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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CELGENE CORPORATION and)	
CHILDREN’S MEDICAL CENTER)	
CORPORATION,)	
)	
Plaintiffs,)	Civil Action No. _____
)	
v.)	COMPLAINT
)	
LANNETT HOLDINGS, INC. and)	
LANNETT COMPANY, INC.,)	
)	(Filed Electronically)
Defendants.)	
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Plaintiffs Celgene Corporation (“Celgene”) and Children’s Medical Center Corporation (“CMCC”) (collectively, “Plaintiffs”), for their Complaint against Defendants Lannett Holdings, Inc. and Lannett Company, Inc. (collectively, “Lannett”), hereby allege as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §100, *et seq.*, arising from Lannett’s filing of an Abbreviated New Drug Application (“ANDA”) with the United States Food and Drug Administration (“FDA”) seeking approval to commercially market a generic version of Celgene’s THALOMID® drug product prior

to the expiration of United States Patent Nos. 6,045,501 (the “501 patent”), 6,315,720 (the “720 patent”), 6,561,976 (the “976 patent”), 6,561,977 (the “977 patent”), 6,755,784 (the “784 patent”), 6,869,399 (the “399 patent”), 7,141,018 (the “018 patent”), 7,230,012 (the “012 patent”), 7,435,745 (the “745 patent”), 7,874,984 (the “984 patent”), 7,959,566 (the “566 patent”), 8,204,763 (the “763 patent”), 8,315,886 (the “886 patent”), 8,589,188 (the “188 patent”), and 8,626,531 (the “531 patent”) (collectively, “the patents-in-suit”). The ’745 patent is owned by CMCC and exclusively licensed to Celgene. All other patents-in-suit are owned by Celgene.

THE PARTIES

2. Plaintiff Celgene is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 86 Morris Avenue, Summit, New Jersey 07901.

3. Plaintiff CMCC is a Massachusetts not-for-profit corporation, having a principal place of business at 55 Shattuck Street, Boston, Massachusetts 02115.

4. On information and belief, Defendant Lannett Holdings, Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 103 Foulk Road, Suite 202, Wilmington, Delaware 19803.

5. On information and belief, Defendant Lannett Company, Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 13200 Townsend Road, Philadelphia, Pennsylvania 19154.

6. On information and belief, Lannett Holdings, Inc. is a wholly owned subsidiary of Lannett Company, Inc.

7. On information and belief, Lannett Holdings, Inc. and Lannett Company, Inc.

manufacture and/or distribute generic drugs for sale and use throughout the United States, including in this Judicial District. On information and belief, Lannett Holdings, Inc. and Lannett Company, Inc. also prepare and/or aid in the preparation and submission of ANDAs to the FDA.

JURISDICTION AND VENUE

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

9. This Court has personal jurisdiction over Lannett Holdings, Inc. by virtue of, *inter alia*, its systematic and continuous contacts with the State of New Jersey. On information and belief, Lannett Holdings, Inc. has purposefully availed itself of this forum by, among other things, making, shipping, using, offering to sell or selling, or causing others to use, offer to sell, or sell, pharmaceutical products in the State of New Jersey and deriving revenue from such activities. On information and belief, Lannett Holdings, Inc. has committed, aided, abetted, induced, contributed to, and/or participated in the commission of, a tortious act of patent infringement that has led to foreseeable harm and injury to Plaintiffs in New Jersey. On information and belief, Lannett Holdings, Inc. has customers in the State of New Jersey. Further, Lannett Holdings, Inc. is a wholly owned subsidiary of Lannett Company, Inc., which has substantial contacts with the State of New Jersey.

10. This Court has personal jurisdiction over Lannett Company, Inc. by virtue of, *inter alia*, its systematic and continuous contacts with the State of New Jersey. On information and belief, Lannett Company, Inc. has purposefully availed itself of this forum by, among other things, making, shipping, using, offering to sell or selling, or causing others to use, offer to sell, or sell, pharmaceutical products in the State of Jersey and deriving revenue from such activities. On information and belief, Lannett Company, Inc. has committed, aided, abetted, induced,

contributed to, and/or participated in the commission of, a tortious act of patent infringement that has led to foreseeable harm and injury to Plaintiffs in New Jersey. On information and belief, Lannett Company, Inc. has customers in the State of New Jersey. Further, on information and belief, Lannett Company, Inc. has previously consented to personal jurisdiction in this Court (*see, e.g.*, Civil Action No. 05-4202), and purposefully availed itself of the benefits of this forum by filing counterclaims in at least one of those actions. Civil Action No. 05-4202.

11. On information and belief, Lannett Holdings, Inc. and Lannett Company, Inc. operate as an integrated business.

12. On information and belief, Lannett Holdings, Inc. and Lannett Company, Inc. share common officers and directors and are agents of each other and/or work in concert with each other with respect to the development, regulatory approval, marketing, sale, and distribution of pharmaceutical products throughout the United States, including in New Jersey.

13. On information and belief, Lannett Holdings, Inc. and Lannett Company, Inc. together formulate, develop, market, and sell active pharmaceutical ingredients (“APIs”), solid dosage forms, pharmaceutical formulations, and/or pharmaceutical products containing such APIs or pharmaceutical formulations that they distribute in New Jersey and throughout the United States.

14. On information and belief, Lannett Holdings, Inc. and Lannett Company, Inc. together routinely file, and/or aid, abet, contribute to, and/or participate in the filing of, ANDAs to seek FDA approval to market their products in the United States, including in New Jersey.

15. On information and belief, Lannett Holdings, Inc. is a wholly owned subsidiary of Lannett Company, Inc. On information and belief, Lannett Company, Inc., acting either alone or in concert with Lannett Holdings, Inc., either directly or through one or more of its

subsidiaries, agents, and/or distributors, markets, sells, and/or distributes pharmaceutical products in New Jersey.

16. On information and belief, Lannett Company, Inc. directs, authorizes, cooperates, participates, and/or assists Lannett Holdings, Inc. with the marketing, selling, and/or distributing pharmaceutical products in New Jersey. On information and belief, the acts of Lannett Holdings, Inc. complained of herein were done at the direction of, with the authorization of, and/or with the cooperation, participation, and assistance of Lannett Company, Inc.

17. On information and belief, this Judicial District is a likely destination of products that will be manufactured and sold as a result of FDA approval of Lannett's ANDA No. 206-601, which is the subject of this lawsuit.

18. On information and belief, Lannett Holdings, Inc. and Lannett Company, Inc. have committed, or aided, abetted, contributed to, and/or participated in the commission of the tortious act of patent infringement that has led to foreseeable harm and injury to Plaintiffs including Celgene Corporation, which has its principal place of business in New Jersey.

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

THE PATENTS-IN-SUIT

20. On April 4, 2000, the United States Patent and Trademark Office ("USPTO") duly and lawfully issued the '501 patent, entitled "Methods for Delivering a Drug to a Patient While Preventing the Exposure of a Foetus or Other Contraindicated Individual to the Drug" to Celgene as assignee of the inventors Marc Elsayed and Bruce Williams. A copy of the '501 patent is attached hereto as Exhibit A.

21. On November 13, 2001, the USPTO duly and lawfully issued the '720 patent,

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