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

SENJU PHARMACEUTICAL CO., LTD., :
BAUSCH & LOMB, INC. and BAUSCH & :
LOMB HOLDINGS CORP., :
Plaintiffs, : CIVIL ACTION NO. 1:14-CV-03962-
 : JBS-KMW
 :
v. :
 :
METRICS, INC., COASTAL :
PHARMACEUTICALS, INC., MAYNE :
PHARMA GROUP LIMITED, and MAYNE : MOTION DATE: September 15, 2015
PHARMA (USA), INC., :
 : ORAL ARGUMENT REQUESTED
Defendants. :

**MEMORANDUM OF LAW IN REPLY TO PLAINTIFFS' OPPOSITION
TO DEFENDANTS' MOTION TO DISMISS THE COMPLAINT (D.I. 1)**

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I. Introduction

Plaintiffs' Opposition to Defendants' Motion to Dismiss (D.I. 50, herein "Plaintiffs' Opposition") reflects a fundamental misunderstanding of the relationships between the named Defendants and their presence in this jurisdiction. Plaintiffs compound their factual misunderstanding by applying an incorrect legal standard for personal jurisdiction. As set forth in Defendants' Motion to Dismiss (D.I. 30, "Defendants' Motion"), only three of the named Defendants are related, and only two of those related Defendants are legal entities: (1) Mayne Pharma Group Limited ("Mayne Pharma Australia"),¹ which is an Australian company whose only involvement in this lawsuit is as the parent entity of Defendant Metrics, Inc. ("Metrics"); and (2) Metrics itself, which is a North Carolina company. (D.I. 30 at 10.) Metrics is organized under the laws of North Carolina with a principal place of business in Greenville, North Carolina. One of the other two named Defendants, Coastal Pharmaceuticals, is just a DBA tradename of Metrics and Mayne Pharma Australia. Thus, Metrics is registered to do business in North Carolina and elsewhere as Coastal Pharmaceuticals. (*Id.*) The DBA entity, Coastal Pharmaceuticals, is not a legal entity at all, and cannot be subject to

¹ In its motion to dismiss, Defendants referred to Mayne Pharma Group Limited as "Mayne Pharma." However, due to Plaintiffs' introduction of other unrelated entities sharing the name "Mayne Pharma" discussed in Plaintiffs' Opposition, Defendants will refer to Mayne Pharma Group Limited as "Mayne Pharma Australia" in this Reply.

jurisdiction apart from the jurisdictional analysis for the underlying legal entity (Metrics). And, as out-of-state corporations without the sort of “continuous and systematic” contacts with the State of New Jersey necessary to support a finding of personal jurisdiction, both Metrics and Mayne Pharma Australia should be dismissed from this case.

Further, Plaintiffs have named a fourth entity, Mayne Pharma (USA), Inc. (“MP USA, Inc.”), as a Defendant in this lawsuit, even though MP USA, Inc. has no relation to Mayne Pharma Australia, to Metrics, or to Mayne Pharma USA (which is another DBA tradename of Defendant Metrics). (D.I. 30 at 10.) Plaintiffs incorrectly attribute the actions of MP USA, Inc. to “Mayne Pharma USA” (which, again, is a DBA tradename of Defendant Metrics). (D.I. 50 at 5.) Plaintiffs repeatedly assert that “Metrics and Mayne Pharma USA are the same corporate entity” (D.I. 50, FN2.) While that assertion is correct, it does not change the simple fact that MP USA, Inc. is unrelated to either Metrics or to Metrics’ DBAs “Mayne Pharma” and “Mayne Pharma USA.” Put simply, MP USA, Inc. and the “Mayne Pharma” and “Mayne Pharma USA” tradenames for Defendants Mayne Pharma Australia and Metrics share nothing more than a similar name.

Plaintiffs then apply a legal standard which disregards the influence of the Supreme Court’s recent decisions in both *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846 (2011)(“Goodyear”) and *Daimler AG v. Bauman*, 134 S.

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