

LAW OFFICES

DECHERT LLP

A PENNSYLVANIA LIMITED LIABILITY PARTNERSHIP

902 CARNEGIE CENTER, SUITE 500

PRINCETON, NEW JERSEY 08540-6531

(609) 955-3200

ATTORNEYS FOR PLAINTIFFS BAXTER HEALTHCARE CORPORATION,

BAXTER INTERNATIONAL INC., AND BAXTER HEALTHCARE S.A.

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

BAXTER HEALTHCARE
CORPORATION, BAXTER
INTERNATIONAL INC., and
BAXTER HEALTHCARE S.A.,

Plaintiffs,

v.

AGILA SPECIALTIES PRIVATE
LIMITED, AGILA SPECIALTY INC.,
AGILA SPECIALTIES INC. F/K/A/
STRIDES INC., MYLAN INC.,
MYLAN PHARMACEUTICALS INC.,
MYLAN INSTITUTIONAL INC., and
MYLAN INSTITUTIONAL LLC.,

Defendants.

C.A. No. _____

COMPLAINT

Plaintiffs Baxter Healthcare Corporation (“Baxter Healthcare”), Baxter International Inc. (“Baxter International”), and Baxter Healthcare S.A. (“Baxter HSA”) (collectively, “Baxter” or “Plaintiffs”), for their Complaint against defendants Agila Specialties Private Limited, Agila Specialty Inc., and Agila Specialties Inc. (collectively “Agila” or the “Agila Defendants”), and Mylan Inc., Mylan Pharmaceuticals Inc., Mylan Institutional Inc., and Mylan Institutional LLC

(collectively “Mylan” or the “Mylan Defendants”) (collectively with Agila, the “Defendants”),
allege as follows:

PARTIES

1. Plaintiff Baxter International is a corporation incorporated in Delaware, having its principal place of business at One Baxter Parkway, Deerfield, IL 60015.

2. Plaintiff Baxter Healthcare is a corporation incorporated in Delaware, having its principal place of business at One Baxter Parkway, Deerfield, IL 60015. Baxter Healthcare is a wholly owned subsidiary of Baxter International.

3. Plaintiff Baxter HSA is a corporation incorporated in Switzerland, having its principal place of business at Hertistrasse 2, Wallisellen, CH-8304, Switzerland. Baxter HSA is a wholly owned subsidiary of Baxter International.

4. Baxter is a global healthcare company that develops, manufactures and markets products for people with hemophilia, immune disorders, infectious diseases, kidney disease, trauma, and other chronic and acute medical conditions.

5. Upon information and belief, defendant Mylan Inc. is a corporation incorporated in Pennsylvania, having its principal place of business at 1000 Mylan Blvd. Canonsburg, PA 15317. Mylan touts itself as one of the world’s leading generics and specialty pharmaceutical companies, with sales in approximately 140 countries and territories and providing medicine to 7 billion people worldwide.

6. Upon information and belief, defendant Agila Specialties Private Limited is a wholly owned subsidiary of Mylan Inc., and is a corporation organized and operating under the laws of India with its principal place of business at Strides House, Bilekahalli, Bannerghatta Road, Bangalore—560076, Karnataka, India, or elsewhere in India.

7. Upon information and belief, to the extent it exists (*see* ¶ 47 below), defendant Agila Specialty Inc. is a wholly owned subsidiary of Mylan Inc., having offices at 781 Chestnut Ridge Road, Morgantown, WV 26505 and is designated by Agila Specialties Private Limited as its U.S. agent. Upon information and belief, Agila Specialty Inc. is not a West Virginia corporation or registered to do business in West Virginia.

8. Upon information and belief, defendant Agila Specialties Inc. (formerly known as Strides Inc.) is a wholly owned subsidiary of Mylan Inc., and is a corporation incorporated in New Jersey with its principal place of business at 201, South Main Street, Suite 3, Lambertville, NJ 08530. Agila Specialties Inc. is registered with the State of New Jersey Division of Revenue and Enterprise Services (Entity ID 0100791546).

9. The Agila Defendants are pharmaceutical companies engaged in the world-wide development, manufacture, and marketing of generic injectable products.

10. Upon information and belief, defendant Mylan Pharmaceuticals Inc. is a wholly owned subsidiary of Mylan Inc., and is a corporation incorporated in West Virginia, having its principal place of business at 781 Chestnut Ridge Road, Morgantown, WV 26505.

11. Upon information and belief, defendant Mylan Pharmaceuticals Inc. is primarily responsible for the marketing, distribution and sales of Mylan Inc.'s products.

12. Upon information and belief, Mylan Institutional Inc. is a corporation incorporated in Illinois and whose registered office is at 1718 Northrock Court, Rockford, IL 61103.

13. Upon information and belief, defendant Mylan Institutional LLC is a limited liability corporation incorporated in Delaware with a principal place of business at 4901 Hiawatha Dr., Rockford, IL 61103.

14. Upon information and belief, defendants Mylan Institutional Inc. and Mylan Institutional LLC are primarily responsible for the marketing, distribution, sales and packaging of Mylan Inc.'s products to Mylan's institutional customers, such as hospitals.

NATURE OF ACTION

15. This is an action for infringement of United States Patent Nos. 6,310,094 ("the '094 Patent") and 6,528,540 ("the '540 Patent") (collectively, "the Patents-in-Suit"). This action is based upon the Patent Laws of the United States, 35 U.S.C. § 100, *et seq.*

JURISDICTION AND VENUE

16. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) (patent infringement). Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

17. This Court has personal jurisdiction over Defendants because, *inter alia*, they have committed – or aided, abetted, planned, contributed to, or participated in the commission of – tortious conduct which will lead to foreseeable harm and injury to Baxter in the State of New Jersey, and in doing so, Defendants have purposefully directed their activities at the residents of this forum.

18. This Court also has personal jurisdiction over Defendants because, *inter alia*, they have maintained continuous and systematic contacts with the State of New Jersey and this District.

19. Upon information and belief, Defendants collaborate to market and sell generic pharmaceutical products, pursuant to the abbreviated new drug application process, throughout the United States, including in the State of New Jersey, at least by making and shipping into this judicial district, or by offering to sell or selling, or causing others to offer to sell or sell, generic

pharmaceutical products. Defendants derive substantial revenue from goods used or consumed or services rendered in this judicial district.

20. Mylan is in the business of making and selling pharmaceutical drug products, including generic drug products. Upon information and belief, Mylan Inc., directly or through its subsidiaries including through Agila and the other Mylan Defendants, manufactures, imports, markets and sells generic drugs throughout the United States and in this judicial district.

21. Mylan Inc.'s 10-K claims, for instance, that Mylan holds the number one ranking in the U.S. generics prescription market in terms of sales, and number two ranking in terms of prescriptions dispensed. The 10-K further states that approximately one in every 12 prescriptions dispensed in the U.S. is a Mylan product. Upon information and belief, Mylan Inc. derives revenue from its operations in New Jersey and is registered with the State of New Jersey Division of Revenue and Enterprise Services (Entity ID 0100971292).

22. Mylan acquired Agila from Strides Arcolabes Limited in December 2013. In its promotional materials, Mylan claims that as a result of its acquisition of Agila, Mylan now commands one of the largest portfolios of injectable medications in the pharmaceutical industry, and that Mylan now has an expanded focus on essential therapies including cardiovascular treatments, as well as expanded manufacturing infrastructure and capabilities.

23. Mylan, Inc.'s 10-K similarly states that the acquisition of Agila doubles Mylan's injectables portfolio, including in the U.S. market and this judicial district.

24. Upon information and belief, Agila has over 80 abbreviated new drug applications approved by the FDA and more than 100 filed applications pending FDA approval. The FDA approved products for which Agila Specialties Private Limited is listed as the applicant holder and manufacturer include Adenosine, Ampicillin Sodium, Ampicillin Sodium/Sulbactam

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