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Filing date: **06/27/2023**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding No.	92082283
Filing Party	Plaintiff Belmora LLC
Other Party	Defendant Mprezas Inc
Pending Motion	There is no motion currently pending and no other motion is being filed concurrent with this consent motion.
Attachments	EDVA Complaint.pdf(300242 bytes)

Consent Motion for Suspension in View of Civil Proceeding

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Belmora LLC hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Belmora LLC has secured the express consent of all other parties to this proceeding for the suspension requested herein.

Certificate of Service

The undersigned hereby certifies that a copy of this submission has been served upon all parties, at their address of record by Email on this date.

Respectfully submitted,
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06/27/2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

BELMORA, LLC,

Plaintiff,

v.

MPREZAS INC., OPMX, LLC,
INTERNATIONAL J&M DISTRIBUTORS
LLC, MARTHA HERNANDEZ a/k/a
MARTHA PEREZ, STEFANIA GARCES,
FERNANDO GARCES a/k/a FERNAN
CAZADERO a/k/a OCTAVIO GARCES
CAZADERO,

Defendants.

Civil Action No. 1:22-cv-1100

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Belmora, LLC (“Plaintiff” or “Belmora”), by counsel, alleges as follows for its Complaint against Defendants Mprezas Inc. (“Mprezas”), OPMX, LLC (“OPMX”), International J&M Distributors LLC (“J&M Distributors”), Martha Hernandez a/k/a Martha Perez (“Hernandez”), Stefania Garces (“Garces”), Fernando Garces a/k/a Fernan Cazadero a/k/a Octavio Garces Cazadero (“Garces Cazadero”) (collectively, “Defendants”).

NATURE OF THE SUIT

1. This is a suit for injunctive relief and damages for Defendants’ brazen and repeated infringement of Belmora’s valuable intellectual property rights associated with its well-known pain relief products, sold under the FLANAX trademark. For nearly two decades, Belmora has sold naproxen sodium tablets—an over-the-counter pain-relief medicine—under the FLANAX trademark. In addition to its naproxen sodium pain-relief tablets, Belmora now also sells Flanax-branded liniments (lotions), lozenges (cough drops), and pain-relief patches. Belmora has spent

millions to promote its Flanax brand, in part by developing its distinctive—and copyright protected—Flanax packaging. That packaging helps to reach non-English speaking consumers by using pictures and providing bilingual information. Through its decades of investment and hard work, Belmora has developed trust with U.S. consumers, who rely on the FLANAX trademark as an indicator of quality pharmaceuticals. Belmora now sells Flanax-branded products in thousands of retailers across the country, and has developed a loyal following, particularly among Spanish-speaking consumers.

2. Defendants are a network of related individuals and their closely held corporate entities. They have repeatedly and illegally maneuvered to profit from Belmora’s success by using marks that are confusingly similar to FLANAX to market their own naproxen sodium products.

3. In 2013, Defendants Garces, Garces Cazadero, Alxigna, Inc. (Mprezas’s predecessor-in-interest), and OPMX (collectively, the “Flaxen Defendants”) began using the confusingly similar FLAXEN trademark to sell naproxen sodium tablets to consumers in this District and elsewhere. After Belmora sued to enjoin the use of that obviously infringing mark, the Flaxen Defendants assigned all rights in the FLAXEN mark to Belmora and agreed to never again use a trademark that was confusingly similar to Belmora’s FLANAX mark to sell pharmaceutical products (the “prior settlement agreement”).

4. But the ink on the prior settlement agreement had barely dried before Defendants hatched a new plot to confuse consumers into thinking that Defendants’ naproxen sodium products were made by Belmora or had some relationship with Belmora’s Flanax brand, using a different corporate entity—Defendant Mprezas, Alxigna’s successor-in-interest. Despite their obligations under the prior settlement agreement, the Flaxen Defendants (Garces, Garces Cazadero, Mprezas as successor to Alxigna, and OPMX), acting together with Defendant Hernandez (Mprezas’s CEO)

(collectively, the “Desinflammox Defendants”), applied to the U.S. Patent and Trademark Office (“PTO”) in August 2021 to register yet another confusingly similar mark—DESINFLAMAX (Serial No. 90896029)—to sell naproxen sodium (and other pharmaceutical) products to consumers in this District and elsewhere.

5. In their submission to the PTO, the Desinflammox Defendants applied for only an intent-to-use mark, thereby representing that they were not currently selling products under the DESINFLAMAX mark, though they one day might. But, in proceedings before the Trademark Trial and Appeal Board (“TTAB”) of the PTO, the Desinflammox Defendants admitted that they have already begun selling naproxen sodium products under the DESINFLAMAX mark despite the fact that their PTO application remains pending.

6. The Desinflammox Defendants have made those sales, including to consumers in this District, through a “pharmacy” website (farmaciamex.com) operated by Defendant J&M Distributors, which is run by yet another member of the Garces family and acting together with the Desinflammox Defendants to knowingly infringe Belmora’s intellectual property and confuse consumers in this District and elsewhere.

7. By using a mark similar to Belmora’s FLANAX mark, Defendants seek to confuse consumers into believing that the Desinflammox Defendants’ products have some relationship to Belmora’s well-known Flanax brand. Seeking to further that confusion, Defendants sell their Desinflammox product using the exact same confusingly similar packaging that they had used for their illegal Flaxen sales, which mirrored key elements of Belmora’s copyrighted Flanax packaging.

8. Like the last time around, Defendants’ business plan is to rip-off Belmora’s Flanax brand and goodwill. They are using a mark that is confusingly similar to Belmora’s FLANAX

mark to sell an over-the-counter drug with the *same* active ingredient (naproxen sodium) in packaging that is strikingly similar to Belmora's Flanax packaging and is targeted to Spanish-speaking consumers. The only difference is that they traded one confusingly similar mark (FLAXEN) for a new confusingly similar mark (DESINFLAMAX). Defendants' actions plainly contradict the Flaxen Defendants' obligations under the prior settlement agreement, infringe on Belmora's existing FLANAX trademarks and copyrights, and seek to confuse consumers in violation of federal and state unfair-competition and false-advertising laws.

9. As a result, Belmora is forced once again to sue to halt Defendants' unauthorized use of its registered trademarks and copyrights, as well as to protect unknowing consumers from being confused by Defendants' infringement on Belmora's FLANAX marks. Belmora asks the Court to order Defendants to disgorge their ill-gotten gains, award damages and attorneys' fees to Belmora, and permanently enjoin Defendants from using these or any other marks that are confusingly similar to the FLANAX mark to hawk Defendants' naproxen sodium or other pharmaceutical products.

PARTIES

10. Plaintiff Belmora is a Virginia limited liability company with its principal place of business at 3033 Wilson Blvd. Suite 700, Arlington, VA 22201. The sole member of Belmora is a citizen of Virginia. Belmora has sold naproxen sodium tablets, as well as other over-the-counter pain-relief and pharmaceutical products, under the FLANAX marks since 2004.

11. Defendant Mprezas is a California corporation with its principal place of business at 470 W. Larch Road, Suite 10, Tracy, CA 95304, that was incorporated in April 2017. Mprezas is the successor to and the assignee of Alxigna, Inc—a now-defunct company that was a party to the prior settlement agreement and was run by Defendants Garces and Garces Cazadero. Mprezas

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