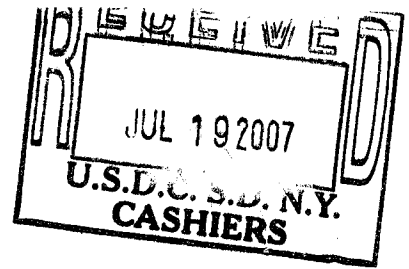


**OFFICE COPY**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**



INFOSINT S.A.,

Plaintiff,

v.

FOREST PHARMACEUTICALS, INC.

Defendants.

**07 CIV 6525**

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

For its Complaint against Defendant Forest Pharmaceuticals, Inc. ("Forest Pharma"), Plaintiff Infosint S.A. ("Infosint") alleges as follows:

**THE PARTIES**

1. Infosint is a Swiss corporation having a principal place of business at Via Cantonale 658a, P.O. Box 83, CH-7745 Poschiavo, Li Curt, Switzerland.
2. On information and belief, Forest Pharma is a Delaware corporation, having a principal place of business at 13600 Shoreline Drive, Earth City, Missouri. On information and belief, Forest Pharma sells pharmaceutical products containing citalopram manufactured by H. Lundbeck A/S in the United States under the trademarks CELEXA™ and LEXAPRO™.

**JURISDICTION**

3. This action arises under the patent laws of the United States, 35 U.S.C. § 1, et seq. Subject matter jurisdiction exists by virtue of 28 U.S.C. §§ 1331 and 1338(a).

## **BACKGROUND**

4. On October 1, 2002, U.S. Patent No. 6,458,973 (“the ’973 patent”), entitled “Process for the Preparation of 5-Carboxyphthalide,” was duly and legally issued by the United States Patent and Trademark Office. A copy of the ’973 patent is attached as Exhibit A.

5. On March 9, 2004, U.S. Patent No. 6,703,516 (“the ’516 patent”), entitled “Process for the Preparation of 5-Carboxyphthalide,” was duly and legally issued by the United States Patent and Trademark Office. A copy of the ’516 patent is attached as Exhibit B.

6. Infosint is the owner of the entire right, title and interest in the ’973 patent through assignment from Norpharma S.p.A. to Infosint effective October 2002.

7. Infosint is the owner of the entire right, title and interest in the ’516 patent.

8. The ’973 and ’516 patents claim improved processes for preparation of the antidepressant citalopram, which include an improved process for the preparation of 5-carboxyphthalide.

9. On information and belief, the citalopram products imported into and/or sold within the United States by Forest Pharma are manufactured outside the United States by H. Lundbeck A/S using a process claimed in the ’973 patent.

10. On information and belief, the citalopram products imported into and/or sold within the United States by Forest Pharma are manufactured outside the United States by H. Lundbeck A/S using a process claimed in the ’516 patent.

### **Count I (PATENT INFRINGEMENT)**

11. Each of the preceding paragraphs 1 through 10 above, inclusive, is incorporated herein by reference.

12. Defendant Forest Pharma has imported and is importing into the United States and/or has offered to sell, sold, or used and is offering to sell, selling and using within the United States, citalopram made by a process covered by one or more of the claims of the '973 patent.

13. By importing, offering to sell, selling and/or using those citalopram products, Forest Pharma has directly infringed, and is directly infringing, the '973 patent under 35 U.S.C. § 271(g).

14. On information and belief, Forest Pharma has and is actively inducing consumers to infringe the '973 patent under 35 U.S.C. § 271(b).

15. Upon information and belief, Forest Pharma's infringement of the '973 patent has been and continues to be willful and deliberate.

16. As a direct and proximate consequence of the acts and practices of Forest Pharma, Infosint has been, is being, and, unless such acts and practices are enjoined by the Court, will continue to be irreparably injured in its business and property rights, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284.

**Count II**  
**(PATENT INFRINGEMENT)**

17. Each of the preceding paragraphs 1 through 16 above, inclusive, is incorporated herein by reference.

18. Defendant Forest Pharma has imported and is importing into the United States and/or has offered to sell, sold, or used and is offering to sell, selling and using within the United States, citalopram made by a process covered by one or more of the claims of the '516 patent.

19. By importing, offering to sell, selling and/or using those citalopram products, Forest Pharma has directly infringed, and is directly infringing the '516 patent under 35 U.S.C. § 271(g).

20. On information and belief, Forest Pharma has and is actively inducing consumers to infringe the '973 patent under 35 U.S.C. § 271(b).

21. Upon information and belief, the Forest Pharma's infringement of the '516 patent has been and continues to be willful and deliberate.

22. As a direct and proximate consequence of the acts and practices of defendants, Infosint has been, is being and, unless such acts and practices are enjoined by the Court, will continue to be irreparably injured in its business and property rights, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284.

#### **PRAYER FOR RELIEF**

WHEREFORE, Infosint prays for the entry of a judgment from this Court:

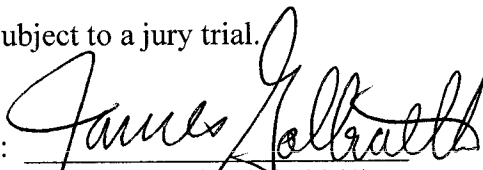
- a. Declaring that the '973 patent is valid and is enforceable;
- b. Declaring that Forest Pharma has infringed the '973 patent;
- c. Declaring that Forest Pharma has willfully infringed the '973 patent;
- d. Declaring that the '516 patent is valid and is enforceable;
- e. Declaring that Forest Pharma has infringed the '516 patent;
- f. Declaring that Forest Pharma has willfully infringed the '516 patent;
- g. Declaring that this is an exceptional case under 35 U.S.C. § 285;
- h. Awarding Infosint its reasonable attorney fees, expenses and costs in this action;

- i. Preliminarily and/or permanently enjoining Forest Pharma from infringing the '973 patent;
- j. Preliminarily and/or permanently enjoining Forest Pharma from infringing the '516 patent;
- k. Awarding Infosint damages in accordance with 35 U.S.C. § 284;
- l. Awarding Infosint such other and further relief as this Court may deem to be just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a jury trial for all issues in this case that properly are subject to a jury trial.

Dated: July 19, 2007

By:   
James Galbraith (JG-4451)  
Maria Luisa Palmese (MP-5855)  
KENYON & KENYON LLP  
One Broadway  
New York, NY 10004  
(212) 425-7200 telephone  
(212) 425-5288 facsimile  
  
*Attorneys for Infosint S.A.*