

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

PHARMAZAM, LLC, a Florida Limited Liability
Company,

Plaintiff,

vs.

Case No.:

THERMO FISHER SCIENTIFIC, INC.
d/b/a LIFE TECHNOLOGIES CORPORATION,
a foreign for-profit corporation,

Defendant,

COMPLAINT

Plaintiff, Pharmazam, LLC (“Pharmazam”), sues Defendant, Thermo Fisher Scientific, Inc. d/b/a Life Technologies Corporation, (“Thermo Fisher”) (collectively referred to as “the Parties”), stating:

Parties and Jurisdiction

1. Plaintiff, PHARMAZAM, is a Florida limited liability company with its principal place of business in Hillsborough County, Florida.
2. Pharmazam is the record owner of the “Pharmazam” name and all trademarks at issue in the instant action.
3. On information and belief, Defendant Thermo Fisher is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business in Massachusetts, and conducting business routinely throughout the State of Florida.

4. This Court has subject matter jurisdiction under 18 U.S.C. § 1831, the Uniform Trade Act, 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338 because this action involves substantial claims arising under the Lanham Act.

5. This Court has jurisdiction over Pharmazam's related state and common-law claims pursuant to 28 U.S.C. §§ 1338 and 1367.

6. This Court has personal jurisdiction over Thermo Fisher because Thermo Fisher has distributed, offered for sale, and/or sold genetic testing services within this State, has engaged in acts or omissions within this State causing injury, has manufactured or distributed products used or consumed within this State in the ordinary course of trade, or has otherwise made contacts with this State sufficient to permit the exercise of personal jurisdiction.

7. This District is a proper venue pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the acts or omissions giving rise to Pharmazam's claims occurred in this District. Pharmazam's principal place of business in Hillsborough County, Florida.

Background on Pharmazam

8. In 2012, Scott Gostyla ("Gostyla") began evaluating and researching the ability to design, create and build the world's first real-time, just-in-time personalized healthcare solution.

9. From 2012 through 2014, Gostyla discovered that based on an individual's DNA or their unique genetic makeup, more than 30% of prescribed and over-the-counter (OTC) medications simply do not work for that individual, giving any therapeutic response or positive effect. In fact, because of his findings, Gostyla learned there were several genetic factors in which, an individual taking a single drug when mixing it with another drug or a combination of medications, even when prescribed could lead to an immediate adverse reaction, a serious illness and in some cases even death.

10. After more advanced research and development entailed to find a solution for this ongoing problem, Gostyla invented the world's first and only Real-Time Personalized Healthcare solution of its kind; in which, an enterprise-wide system could accurately report on the best healthcare solution(s) available for someone based on that individual's DNA, and current health condition at that exact moment in time.

11. Gostyla concluded that implementing such a system would help people eliminate multiple healthcare issues, save countless lives, and drive down the billions of dollars of unwarranted medical expenses spent on adverse drug reactions or trial and error prescribing each year.

12. As a result, on April 20, 2016, Gostyla created the entity Pharmazam with the Florida Department of State.

13. In connection with creating Pharmazam, on June 30, 2017, Gostyla created PZIP. PZIP was granted a membership interest in Pharmazam through Gostyla. PZIP's primary business activity is acting as a holding company for its Pharmazam ownership interest.

14. Pharmazam was formed to provide genetic testing services to enable consumers and various medical professionals to better determine the most beneficial course(s) of treatment for a particular patient. Its proprietary application ("app") informs consumers of potential drug-to-drug and drug-to-gene interactions, providing valuable information that doctors can use to tailor treatment to each patient's needs.

15. Through long and extensive research and development, and the expenditure of a considerable amount of time and effort and large sums of money, Pharmazam has developed a substantial number of commercially valuable trade secrets and confidential, proprietary, scientific, technical, and business information concerning the research, development, formulation,

processing, production, and marketing of genetic testing services, enabling consumers and various medical professionals to better determine the most beneficial course(s) of treatment for particular patients.

16. Pharmazam has used this information to generate various written materials, drawings, processes, procedures, equipment, lists of suppliers and customers, and the like, and that information constitutes an extremely valuable asset of Pharmazam.

17. Pharmazam has taken reasonable steps to keep its confidential and proprietary business information secret, including but not limited to:

- a. restricting access to that information to employees who have a need to know it;
- b. maintaining that information on password-protected databases; and
- c. requiring its employees, business partners, vendors, affiliates, and other individuals or entities granted access to that information to execute and comply with confidentiality and non-disclosure agreements.

18. In furtherance of Pharmazam's creation, on June 16, 2017, Pharmazam filed for two (2) trademarks with the United States Patent and Trademark Office (USPTO). On October 18, 2017, Pharmazam got a Notice of Publication from the USPTO that both of its trademarks were published.

19. On October 29, 2018, Pharmazam filed an official patent with the USPTO for a "Personalized Medication Management and Alert System and Method." Included inside the official patent application are Pharmazam's proprietary APIs, Algorithms, trade secrets, and other proprietary information. Pharmazam is currently patent pending.

Plaintiff's Business Dealings with Thermo Fisher

20. Thermo Fisher Scientific, Inc. (“Thermo Fisher”) is a business that, among other things, performs various genetic testing services for clients in different industries.

21. On or around May 2017, Thermo Fisher inquired to Gostyla and Pharmazam about the possibility of a potential relationship between Thermo Fisher and Pharmazam. In such a relationship, Thermo Fisher would provide genetic testing services for Pharmazam, the results of which would be incorporated into the information presented to Pharmazam’s customers through its app.

22. Daniel Leddy (“Leddy”) with Life Sciences Solutions, a Genetic Analysis division of Thermo Fisher, was the initial Thermo Fisher sales representative who approached Gostyla about Thermo Fisher potentially partnering with Pharmazam.

23. During Pharmazam’s dealings with Thermo Fisher, it became apparent that in determining and evaluating a possible business relationship, the Parties would need to discuss and disclose valuable proprietary and confidential information, including Pharmazam’s trade secrets.

24. In order to protect its confidential and proprietary business information, Pharmazam required that Thermo Fisher enter into a Mutual Non-Disclosure Agreement (“NDA”) prior to any disclosure of Pharmazam’s confidential and proprietary business information. **Exhibit “A.”** The NDA was executed by John Blankenbeckler, currently the Senior Director of Legal Operations for Thermo Fisher.

25. The NDA requires Thermo Fisher to, inter alia:

(1) hold [Pharmazam’s] Confidential Information in confidence and to take all necessary precautions to protect such Confidential Information with the same degree of care which [Thermo Fisher] employs to its own confidential information, (2) not to divulge any of [Pharmazam’s] Confidential Information or any information derived therefrom to any third party, (3) not to make any use of [Pharmazam’s] Confidential Information, and (4) not to copy or reverse engineer, or attempt to derive the composition of underlying information of any such [Pharmazam’s] Confidential Information.

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