

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

NATCO PHARMA LTD.,

Plaintiff,

v.

JOHN DOE, a seller on the online
marketplace TradeIndia.com,

Defendant.

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Civil Action No. 21-cv00396

JURY DEMANDED

COMPLAINT

Plaintiff Natco Pharma Ltd. (“Plaintiff” or “Natco”) for its Complaint against Defendant John Doe (“Defendant” or “Doe”), a seller on at least the online marketplace TradeIndia.com, alleges as follows:

1. This is an action for permanent injunctive relief, damages, and further relief based on Defendant’s false advertising and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125.

PARTIES

2. Plaintiff Natco Pharma Ltd. is a corporation organized and existing under the laws of India and having a principal place of business at Natco House, Road No. 2, Banjara Hills, Hyderabad – 500034, Telangana, India. Plaintiff is a leading innovator, manufacturer, and marketer of pharmaceutical products, and it distributes its products throughout the world, including in the United States and in Minnesota.

3. Defendant John Doe, upon information and belief, is doing business and has done business in Minnesota and elsewhere, selling and offering for sale a variety of products, including unauthorized prescription drug products under Natco's name, on at least the online marketplace TradeIndia.com.

4. TradeIndia.com describes itself as "India's Best Sourcing Marketplace." Products for sale on TradeIndia.com are available for purchase in the United States, including within the State of Minnesota. Upon information and belief, Defendant John Doe is doing business and has done business in interstate commerce over the Internet, is accepting payments online, and is involved in selling infringing products to Minnesota residents, offering to sell infringing products to Minnesota residents, and shipping infringing products to Minnesota residents. Upon information and belief, Defendant has availed itself of the privilege of regularly transacting business with Minnesota residents, businesses, and individuals.

5. Natco has not been able to obtain the identity of Defendant John Doe despite its reasonable efforts.

6. Plaintiff contacted TradeIndia.com in an attempt to obtain the identity of Defendant John Doe. TradeIndia.com provided the IP addresses 139.59.25.86 and 139.59.17.146 in connection with the storefront associated with Defendant John Doe. These IP addresses are operated by third party DigitalOcean, LLC, 101 Avenue of the Americas, 10th Floor New York, NY 10013 ("DigitalOcean").

7. On October 5, 2020, Natco filed a Request for Identity of Infringers against DigitalOcean pursuant to 17 U.S.C. § 512 in the United States District Court for the

District of Minnesota. That Action is styled *Natco Pharma Ltd. v. DigitalOcean, LLC*, Civil Action No. 20-mc-70 (D. Minn. filed October 5, 2020). Pursuant to subpoenas issued in that Action, DigitalOcean stated that the IP addresses 139.59.25.86 and 139.59.17.146 were assigned to a virtual private network (“VPN”) service, Psiphon Inc., which is located at 583 Church Street, Toronto, Ontario Canada, M4Y 2E4 (“Psiphon”). Upon information and belief, third party Psiphon is in possession of the identity of Defendant John Doe. Psiphon’s privacy policy states it does not share user-specific data with third parties, necessitating the use of formal discovery to obtain such information.

NATURE OF ACTION AND JURISDICTION

8. This is an action for false advertising and unfair competition arising under the Trademark Act of 1946, as amended, 15 U.S.C. § 1051 *et seq.* (“Lanham Act”).

9. This Court has federal question subject matter jurisdiction over the claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a), and 1338(b).

10. Personal jurisdiction over Defendant is proper in the District of Minnesota at least by virtue of the state longarm statute and Fed. R. Civ. P. 4(l) because, upon information and belief, Defendant conducts and has conducted business in this District via the online marketplace TradeIndia.com. Through at least that Internet website and online marketplace, upon information and belief, Defendant has marketed, offered to sell, and sold the accused products to residents of Minnesota. Defendant has purposefully directed its activities at Plaintiff, and the conduct of Defendant has caused and continues to cause harm and injury to Plaintiff in Minnesota and elsewhere.

11. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1391(c)(3).

BACKGROUND

12. Natco is a leading pharmaceutical company engaged in developing, manufacturing and marketing a wide variety of innovative pharmaceutical products. Natco markets and distributes its pharmaceutical products in over 40 countries around the world, including the United States, India, and Europe. Natco primarily focuses on niche therapeutic areas and complex pharmaceutical products.

13. One area of focus is oncology. Natco develops, manufactures, and markets a wide variety of oncology formulations, including pharmaceuticals for haemato-oncology and solid tumors. Natco's oncology formulations are of decisive therapeutic importance in treating cancers of the blood, liver, kidney, lung, brain, breast, and ovary, among others. Examples of Natco's oncology formulations include, among others, Alphalan, Rasburnat, and Azacitidine. *See* <https://www.natcopharma.co.in/our-business/domestic-formulations/oncology/>.

14. Companies that sell and distribute pharmaceuticals in the United States are required to abide by certain requirements the U.S. Food and Drug Administration ("FDA") imposes, including registering the company with the FDA and adhering to approval and labeling requirements.

15. A version of Natco's Azacitidine formulation, in addition to numerous other of its oncology formulations, are approved for sale in the United States by the FDA. Natco's Alphalan and Rasburnat oncology formulations are not approved by the FDA for sale in the United States, but they are approved by the governing regulatory bodies in the countries in which these formulations are authorized for sale, including India.

16. Natco's oncology formulations are prescription pharmaceutical products and are only available to customers with the prescription of an appropriately licensed health professional.

DEFENDANT'S UNLAWFUL ACTIVITIES

17. Defendant is not sponsored by or affiliated with Natco.

18. Defendant has impersonated Natco and offered unauthorized Natco prescription drug products for sale on the online marketplace TradeIndia.com. Natco does not sell prescription drug products, or any products, on TradeIndia.com.

19. In its commercial advertising and promotion, Defendant has stated and implied to customers and others that its TradeIndia.com storefront is sponsored by and/or affiliated with Natco, and that the products offered for sale and/or sold on Defendant's TradeIndia.com storefront are actually offered for sale and/or sold directly by Natco.

20. Defendant has impersonated Natco by creating a false storefront on TradeIndia.com. Defendant's storefront is not authorized by Natco or affiliated with Natco. Upon information and belief, Defendant created false TradeIndia.com "Seller Profiles" at the following links: <https://www.tradeindia.com/Seller-6530100-Natco-Pharma-Ltd-/> and <https://www.tradeindia.com/Seller-24914124-Natco/product-services.html>.

21. Screenshots of Defendant's TradeIndia.com storefront are set forth below:

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