

William C. Baton
Charles M. Lizza
Sarah A. Sullivan
SAUL EWING ARNSTEIN & LEHR LLP
One Riverfront Plaza
1037 Raymond Blvd., Suite 1520
Newark, NJ 07102
wbaton@saul.com

*Attorneys for Plaintiff
Supernus Pharmaceuticals, Inc.*

OF COUNSEL:

Edgar H. Haug
Nicholas F. Giove
Gregory Sephton
Andrew S. Roper
Jason A. Kanter
HAUG PARTNERS LLP
745 Fifth Avenue
New York, NY 10151

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

SUPERNUS PHARMACEUTICALS, INC.,

Plaintiff,

v.

**RICONPHARMA LLC and INGENUS
PHARMACEUTICALS, LLC,**

Defendants.

Civil Action No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

(Filed Electronically)

Plaintiff Supernus Pharmaceuticals, Inc. (“Supernus” or “Plaintiff”), by its undersigned attorneys, for its Complaint against Defendants RiconPharma LLC (“Ricon”) and Ingenus Pharmaceuticals, LLC (“Ingenus”) (collectively, “Defendants”), alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, involving United States Patent No. 7,722,898 (“the ’898 patent”), United States Patent No. 7,910,131 (“the ’131 patent”), United States Patent No. 8,617,600 (“the ’600 patent”), United States Patent No. 8,821,930 (“the ’930 patent”), United States Patent No. 9,119,791 (“the ’791 patent”), United States Patent No. 9,351,975 (“the ’975

patent”), United States Patent No. 9,370,525 (“the ’525 patent”), United States Patent No. 9,855,278 (“the ’278 patent”), and United States Patent No. 10,220,042 (“the ’042 patent”), attached hereto as Exhibits A–I (collectively, “the patents in suit”).

THE PARTIES

2. Plaintiff Supernus is a corporation organized and existing under the laws of Delaware, having its principal place of business at 9715 Key West Avenue, Rockville, Maryland 20850.

3. Upon information and belief, RiconPharma LLC (“Ricon”) is a New Jersey limited liability company, having its principal place of business at 100 Ford Road, Suite 9, Denville, New Jersey 07834.

4. Upon information and belief, Ricon is in the business of, *inter alia*, developing, manufacturing, marketing, distributing, and directly and/or indirectly selling generic pharmaceutical products throughout the United States (including in the State of New Jersey), and importing generic pharmaceutical products into the United States (including into the State of New Jersey).

5. Upon information and belief, Ricon either directly or through one or more of its affiliates and/or agents, develops, manufactures, distributes, markets, offers to sell, and sells generic pharmaceutical products, including in the State of New Jersey.

6. On information and belief, Defendant Ingenus Pharmaceuticals, LLC (“Ingenus”) is a corporation organized and existing under the laws of Delaware, having its principal place of business at 4190 Millenia Road, Orlando, Florida 32839. On information and belief, Ingenus also has facilities at 140 New Dutch Lane, Fairfield, New Jersey 07004 and, like Ricon, at 100 Ford Road, Suite 9, Denville, New Jersey 07834.

7. Upon information and belief, Ricon and Ingenus work together for the direct benefit of each other.

8. Upon information and belief, Ingenus states on its webpage that it entered into a merger agreement with Ricon on August 8, 2014, and that the combined entity has filed multiple ANDAs. Ingenus website, <https://www.ingenus.com/riconpharma%C2%ADingenus-merger-7/> (visited May 24, 2021).

9. Upon information and belief, Ingenus is in the business of, *inter alia*, developing, manufacturing, marketing, distributing, and/or selling generic pharmaceutical products throughout the United States (including in the State of New Jersey), and importing generic pharmaceutical products into the United States (including into the State of New Jersey).

10. Upon information and belief, Ingenus is registered as a wholesale drug distributor in the State of New Jersey under Registration No. 5004116. Upon information and belief, Ricon, with the assistance of Ingenus, prepared, and filed Abbreviated New Drug Application (“ANDA”) No. 215796 (“the Ricon ANDA”) with FDA seeking approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of generic oxcarbazepine extended-release tablets, containing 150 mg, 300 mg, and 600 mg of oxcarbazepine (“the Ricon Product”).

JURISDICTION AND VENUE

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

12. This Court has personal jurisdiction over Defendants under: (i) Fed. R. Civ. P. 4(k)(1); and (ii) N.J. Ct. R. 4:4-4.

13. Upon information and belief, Defendants maintain a regular and established place of business in New Jersey and have purposefully availed themselves of the privilege of doing

business in the State of New Jersey by continuously and systematically placing goods in the stream of commerce for distribution and sale throughout the United States, including the State of New Jersey. For example, upon information and belief, Ingenus states on its website that “Ingenus’ New Jersey-based research & development facility specializes in the development of solid orals (IR, MR, SL, and Films), topicals (ointments, creams, lotions, gels, powders, foams, and sprays), transdermal patches (Hydrogel & Matrix), injectables (solutions, lyophilized, and suspensions), and nasal sprays” and that “Ingenus today is poised to file 25 ANDAs a year.” Ingenus website, <https://www.ingenus.com/manufacturing/> (visited May 9, 2021).

14. Upon information and belief, Defendants maintain a broad distributorship network within the State of New Jersey and enjoy substantial income from sales of their generic pharmaceutical products in the State of New Jersey.

15. Upon information and belief, Ingenus is registered as a wholesale drug distributor in the State of New Jersey under the Registration No. 5004116. Ingenus has, therefore, purposefully availed itself of the rights, benefits, and privileges of New Jersey’s laws.

16. On information and belief, Ricon and Ingenus have been, and continue to be, joint and primary actors in the drafting, submission, approval, and maintenance of the Ricon ANDA.

17. This Court has personal jurisdiction over Defendants because, *inter alia*:
(i) Ricon, together with Ingenus, has committed, induced, or contributed to acts of patent infringement in New Jersey, including, but not limited to, the preparation of materials related to the Ricon ANDA submission; (ii) Defendants are doing business in New Jersey and maintain continuous and systematic contacts with this Judicial District, including by having a regular and established place of business in New Jersey; (iii) Defendants directly or indirectly through agents regularly do or solicit business in New Jersey and/or derive substantial revenue from services or

things used or consumed in New Jersey; (iv) Defendants transact business, perform work, and contract to supply services or products in New Jersey; and (v) Ingenus is registered as a wholesale drug distributor in the State of New Jersey under Registration No. 5004116. For example, the FDA requires ANDA filers to prepare test batches of the proposed generic product. *See, e.g.*, <https://www.fda.gov/media/107325/download>. Upon information and belief, the only Ingenus manufacturing facility identified on Ingenus' website for non-oncology products and treatments—such as those claimed in the patents in suit—is located in New Jersey. Ingenus website, <https://www.ingenus.com/manufacturing/> (visited May 9, 2021).

18. Ricon's tortious acts of (i) preparing and filing ANDA No. 215796 with a paragraph IV certification to the patents in suit for the purpose of obtaining approval to engage in the commercial manufacture, use, sale, offer for sale, and/or importation into the United States of the Ricon Product before the expiration of the patents in suit; and (ii) directing notice of its ANDA submission to Plaintiff Supernus, are acts with real and injurious consequences giving rise to this infringement action, including the present and/or anticipated commercial manufacture, use, and/or sale of Ricon's ANDA Product before the expiration of the patents in suit throughout the United States, including in this Judicial District. On information and belief, Ingenus participated with Ricon in the above-mentioned tortious acts. Because defending against an infringement lawsuit such as this one is an inherent and expected part of a generic ANDA filer's business, Ricon and Ingenus should reasonably anticipate being sued in New Jersey.

19. Upon information and belief, if ANDA No. 215796 is approved, Ricon's ANDA Product will be marketed and distributed by Defendants in the State of New Jersey, prescribed by



Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.