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

BAUSCH & LOMB, INC.;
BAUSCH & LOMB IRELAND LIMITED;
and EYE THERAPIES, LLC,

Plaintiffs,

v.

HARROW HEALTH, INC.; IMPRIMISRX,
LLC; IMPRIMISRX NJ, LLC; and
IMPRIMIS NJOF, LLC,

Defendants.

Civil Action No. 21-19252

Document Electronically Filed

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Plaintiffs Bausch & Lomb, Inc., Bausch & Lomb Ireland Limited, and Eye Therapies, LLC (collectively, “Plaintiffs”) by way of Complaint against Defendants Harrow Health, Inc., ImprimisRx, LLC, ImprimisRx NJ, LLC, and Imprimis NJOF, LLC (collectively, “Defendants”) allege as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Patent Nos. 8,765,758 (“the ’758 patent”) and 9,259,425 (“the ’425 patent”), arising under the United States patent laws, Title 35, United States Code, § 100 et seq., including 35 U.S.C. §§ 271 and 281. This action relates to

Defendants' making, using, importing, offering to sell, or selling its Epinastine Brimonidine PF product (the "Accused Product") through its 503A Pharmacy and 503B Outsourcing Facility, which is, for example, advertised with the image below and with the tagline "HERE TO BRIGHTEN YOUR DAY!":



THE PARTIES

2. Plaintiff Bausch & Lomb, Inc. ("Bausch") is a corporation organized and existing under the laws of New York with a place of business at 1400 N. Goodman St. Rochester, NY 14609. Bausch is the registered holder of approved New Drug Application ("NDA") No. 208144, which covers Lumify[®] ophthalmic solution/drops (brimonidine tartrate, 0.025%).

3. Plaintiff Bausch & Lomb Ireland Limited ("Bausch Ireland") is a company organized and existing under the laws of Ireland, having its registered office at 3013 Lake Drive, Citywest Business Park, Dublin, Ireland. Bausch Ireland exclusively licenses the '758 patent and the '425 patent.

4. Plaintiff Eye Therapies, LLC ("Eye Therapies") is a limited liability company organized and existing under the laws of Delaware, having its principal place of business at 26933

Camino De Estrella, 2nd Fl., Dana Point, California 92624. Eye Therapies is the owner of the '758 patent and the '425 patent.

5. Upon information and belief, Harrow Health, Inc. (“Harrow Health”) is a Delaware corporation having a principal place of business at 102 Woodmont Blvd., Suite 610, Nashville, TN 37205.

6. Upon information and belief, ImprimisRx, LLC (“ImprimisRx”) is a limited liability company organized under the laws of Delaware, having a principal place of business at 12264 El Camino Real, Suite 350, San Diego, CA 92130.

7. Upon information and belief, ImprimisRx NJ, LLC (“ImprimisRx NJ”) is a limited liability company organized under the laws of New Jersey, having a principal place of business at 1705 Route 46 W, Suite 4, Ledgewood, NJ 07852, within this judicial district.

8. Upon information and belief, Imprimis NJOF, LLC (“Imprimis NJOF”) is a limited liability company organized under the laws of New Jersey, having a principal place of business at 1705 Route 46 W, Suite 6B, Ledgewood, NJ 07852, within this judicial district.

9. Upon information and belief, Harrow Health is the parent corporation of ImprimisRx, ImprimisRx NJ, and Imprimis NJOF, and the acts complained of herein were done with the cooperation, participation and assistance of Harrow Health, ImprimisRx, ImprimisRx NJ, and Imprimis NJOF.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338(a)-(b).

11. Upon information and belief, this court has jurisdiction over ImprimisRx NJ. Upon information and belief, ImprimisRx NJ is in the business of, *inter alia*, developing, manufacturing, marketing, importing and selling pharmaceutical products, including compounded drug products.

Upon information and belief, ImprimisRx NJ directly or indirectly, develops, manufactures, markets, and sells the Accused Product in this judicial district, specifically, where its 503A Compounding Pharmacy and 503B Outsourcing Pharmacy designations are held, and, after manufacturing the Accused Product in this judicial district, distributes the Accused Product throughout the United States. Upon information and belief, ImprimisRx NJ purposefully has conducted and continues to conduct business in this judicial district. Upon information and belief, ImprimisRx NJ is organized under the laws of New Jersey and has its principal place of business at 1705 Route 46 W, Suite 4, Ledgewood, NJ 07852, within this judicial district. Upon information and belief, ImprimisRx purposefully has conducted and continues to conduct business in this judicial district in concert with Harrow Health, ImprimisRx and Imprimis NJOF.

12. Upon information and belief, this court has jurisdiction over Imprimis NJOF. Upon information and belief, Imprimis NJOF is in the business of, *inter alia*, developing, manufacturing, marketing, importing and selling pharmaceutical products, including compounded drug products. Upon information and belief, Imprimis NJOF directly or indirectly, develops, manufactures, markets, and sells the Accused Product in this judicial district, specifically, where its 503A Compounding Pharmacy and 503B Outsourcing Pharmacy designations are held, and, after manufacturing the Accused Product in this judicial district, distributes the Accused Product throughout the United States. Upon information and belief, Imprimis NJOF purposefully has conducted and continues to conduct business in this judicial district. Upon information and belief, Imprimis NJOF is organized under the laws of New Jersey and has its principal place of business at 1705 Route 46 W, Suite 6B, Ledgewood, NJ 07852, within this judicial district. Upon information and belief, Imprimis NJOF purposefully has conducted and continues to conduct business in this judicial district in concert with Harrow Health, ImprimisRx and ImprimisRx NJ.

13. Upon information and belief, this court has jurisdiction over ImprimisRx. Upon information and belief, ImprimisRx is in the business of, *inter alia*, developing, manufacturing, marketing, importing and selling pharmaceutical products, including compounded drug products. Upon information and belief, ImprimisRx directly or indirectly, develops, manufactures, markets, and sells the Accused Product in this judicial district, specifically, where its 503A Compounding Pharmacy and 503B Outsourcing Pharmacy designations are held, and, after manufacturing the Accused Product in this judicial district, distributes the Accused Product throughout the United States. Upon information and belief, ImprimisRx maintains its 503A Pharmacy location and 503B Outsourcing Facility location in this judicial district. Upon information and belief, ImprimisRx purposefully has conducted and continues to conduct business in this judicial district in concert with Harrow Health, ImprimisRx NJ, and Imprimis NJOF.

14. Upon information and belief, this court has jurisdiction over Harrow Health. Upon information and belief, Harrow Health is in the business of, *inter alia*, developing, manufacturing, marketing, importing and selling pharmaceutical products, including compounded drug products. Upon information and belief, Harrow Health directly or indirectly, develops, manufactures, markets, and sells the Accused Product in this judicial district, specifically, where its 503A Compounding Pharmacy and 503B Outsourcing Pharmacy designations are held, and, after manufacturing the Accused Product in this judicial district, distributes the Accused Product throughout the United States. Upon information and belief, Harrow Health, through its wholly-owned subsidiary ImprimisRx, maintains its 503A Pharmacy location and 503B Outsourcing Facility location in this judicial district. Upon information and belief, Harrow Health purposefully

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