

FRIER LEVITT

A T T O R N E Y S A T L A W

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Attorneys for Plaintiff: Framework MI, Inc.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

FRAMEWORK MI, Inc.,

Plaintiff,

v.

CVS HEALTH CORPORATION; CVS
PHARMACY, INC.; CAREMARK RX, LLC;
PROCARE PHARMACY, LLC d/b/a
ENCOMPASS RX; ENCOMPASS RX, LLC;

Defendants.

Case No. 1:20-cv-00907 (NRB)

FIRST AMENDED COMPLAINT

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiff, Framework MI, Inc., (“Framework” or “Plaintiff”), by and through its attorneys, **FRIER LEVITT, LLC**, and by way of First Amended Complaint against Defendants, CVS Health Corporation (“CVS Health”); CVS Pharmacy, Inc. (“CVS Pharmacy”); Caremark RX, LLC (“Caremark”); ProCare Pharmacy, LLC d/b/a Encompass RX (“ProCare”); (CVS Health, CVS Pharmacy, Caremark, and ProCare are collectively referred to as “CVS Defendants”); Encompass RX, LLC (“Encompass”) (all Defendants collectively referred to as “Defendants”); herein alleges as follows:

PRELIMINARY STATEMENT

1. Plaintiff, Framework MI, Inc., brings this First Amended Complaint in response to Defendants' improper conduct and actions, which involved the CVS Defendants improperly discovering, accessing and copying Framework's unique, proprietary software products so they could be replicated, utilized, and tailored for their own financial benefit and to Framework's detriment. During the time period relevant to this dispute, the CVS Defendants acted intentionally in order to advance their own agenda, to the detriment of Framework, so that it could utilize Framework's products to develop their own competing software and implement it within its own specialty pharmacy network, the largest in the country. In short, the CVS Defendants' improper, dishonest, and illegal conduct has caused Framework substantial and ongoing harm.

THE PARTIES

2. Plaintiff Framework MI, Inc., is a high-end healthcare consulting and technology company based in Cincinnati, Ohio and located at 9435 Waterstone Boulevard, Suite 140, Cincinnati, Ohio 45249.

3. Although based in Cincinnati, Ohio, Framework conducts business throughout the entire United States, including the State of New York where it works with numerous entities including pharmacies, hospitals, and physicians. Moreover, Framework is a party to a contract with the CVS Defendants that is directly related to this dispute that contains a New York choice of law provision.

4. Defendant CVS Health Corporation is a Delaware corporation with its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.

5. Although CVS Health Corporation is a Delaware Corporation headquartered in Rhode Island, it is well known that CVS Health conducts business throughout the entire United States including throughout the State of New York.

6. By way of example, CVS has approximately twenty (20) CVS retail pharmacy locations in New York City alone with countless others open and operating throughout the State of New York and derives substantial revenue from these operations.

7. Additionally, CVS Health is a party to a contract with the Plaintiff that is directly related to this dispute that contains a New York choice of law provision.

8. Defendant CVS Pharmacy, Inc. is a Delaware corporation with its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.

9. Although CVS Pharmacy is a Delaware Corporation headquartered in Rhode Island, it is well known that CVS Pharmacy conducts business throughout the entire United States including throughout the State of New York. By way of example, CVS has approximately twenty (20) CVS retail pharmacy locations in New York City alone with countless others open and operating throughout the State of New York and derives substantial revenue from these operations.

10. CVS Pharmacy maintains an interactive pharmacy website which solicits business from customers and pharmacy patients throughout the United States, including New York.

11. In addition, CVS provides numerous pharmacy services by sending pharmacy related items, including prescription and over-the-counter drug products, through the mail throughout the entire State of New York and derives substantial revenue from these operations.

12. Moreover, CVS retail pharmacies as well as CVS specialty pharmacies possess and maintain pharmacy licenses with the Pharmacy Unit of the New York State Education Department Office of the Professions Division of Professional Licensing Services.

13. Additionally, CVS Pharmacy is a party to a contract with the Plaintiff that is directly related to this dispute that contains a New York choice of law provision.

14. Defendant Caremark RX, LLC is a limited liability company organized and existing under the laws of Delaware with its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.

15. Although Caremark is a Delaware limited liability corporation headquartered in Rhode Island, Caremark as pharmacy benefit manager conducts extensive business throughout the State of New York and derives substantial revenue from these operations.

16. More specifically, Caremark routinely conducts audits and investigations of pharmacies operating throughout the State of New York.

17. Additionally, Caremark is a party to a contract with the Plaintiff that is directly related to this dispute that contains a New York choice of law provision.

18. Defendant ProCare Pharmacy, LLC d/b/a Encompass RX is a limited liability company organized and existing under the laws of Delaware with its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895. The entity doing business as Encompass RX operates in a space leased and located at 2700 Northeast Expressway B-800, Atlanta, Georgia 30345.

19. ProCare Pharmacy, LLC d/b/a Encompass RX conducts business throughout the entire United States and possesses and maintains a pharmacy license with the Pharmacy Unit of the New York State Education Department Office of the Professions Division of Professional Licensing Services. Moreover, ProCare Pharmacy, LLC d/b/a Encompass RX regularly ships prescription drug products and related materials into the State of New York in furtherance of its business operations and derives substantial revenue from these operations. This is done in reliance on and by utilizing Plaintiff's copyrighted software products. In fact, Plaintiff's copyrighted software products are critical to the mail order component of ProCare Pharmacy, LLC d/b/a Encompass RX's business operations.

20. Additionally, ProCare Pharmacy is a party to a contract with the Plaintiff that is directly related to this dispute that contains a New York choice of law provision.

21. Upon information and belief, Encompass RX, LLC is a limited liability company organized and existing under the laws of Georgia with a principal office address of 1972 Audubon Drive, Atlanta, Georgia 30329. Encompass RX, LLC conducts business throughout the entire United States and possesses and/or possessed a pharmacy license with the Pharmacy Unit of the New York State Education Department Office of the Professions Division of Professional Licensing Services during the time period relevant to this dispute.

22. Moreover, Encompass RX, LLC regularly ships and/or shipped prescription drug products and related materials into the State of New York in furtherance of its business operations during the time period relevant to this dispute and derived substantial revenue from these operations. Encompass RX, LLC accomplished these tasks in reliance on and by utilizing Plaintiff's copyrighted software products. In fact, Plaintiff's copyrighted software products are/were critical to the mail order component of Encompass RX, LLC's business operations.

JURISDICTION AND VENUE

23. Jurisdiction is found under 28 U.S.C. § 1331 because Plaintiff asserts claims arising under federal law including but not limited to under federal copyright laws found under 17 U.S.C. § 501, *et seq.*

24. This court has jurisdiction over any claims arising under state law pursuant to the Court's supplemental jurisdiction found under 28 U.S.C. § 1367.

25. Venue is proper in this District pursuant to 28 U.S.C. § 1391 as all parties are subject to jurisdiction in this District.

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