

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MERCK & CIE,
SOUTH ALABAMA MEDICAL SCIENCE
FOUNDATION and
PAMLAB L.L.C.

Plaintiffs,

-vs.-

MACOVEN PHARMACEUTICALS, GNOSIS
S.P.A. GNOSIS USA INC. and
GNOSIS BIORESEARCH S.A.,

Defendants.

6:12cv27

JURY DEMAND
COMPLAINT

Plaintiffs Merck & Cie (“Merck”), South Alabama Medical Science Foundation (“SAMSF”) and PamLab L.L.C (“PamLab”) (collectively, “Plaintiffs”) file this Complaint against Defendants Macoven Pharmaceuticals (“Macoven”), Gnosis, S.p.A., Gnosis USA Inc. and Gnosis Bioresearch SA¹ (collectively, “Defendants”) and, in support thereof, allege as follows:

NATURE AND BASIS OF ACTION

1. This is a civil action for the infringement of United States Patent Nos. 5,997,915 (the “’915 patent”), 6,011,040 (the “’040 patent”), 6,254,904 (the “’904 patent”), 6,673,381 (the “’381 patent”), 7,674,490 (the “’490 patent”), and 7,172,778 (the “’778 patent”). This action arises under the patent laws of the United States, 35 U.S.C. § 100, *et seq.*

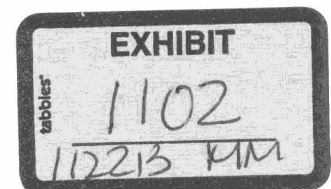
PARTIES

2. Plaintiff Merck & Cie is a Swiss corporation with a principal place of business at WeissHausmatte 6460 Altdorf, Switzerland.

Gnosis Ex. 1102

Gnosis v. Merck/SAMSF
IPR2013-116, -117, -118, -119

¹ All of the Gnosis entities hereafter will be referred to collectively as “Gnosis.”



also known as L-5-methyltetrahydrofolic acid, calcium salt, or L-methylfolate, or (6S)-5-MTHF or L-5-MTHF, or synonyms thereof (hereinafter “L-methylfolate”).

55. Merck markets this product in connection with its trademarks consisting in whole or in part of the term METAFOLIN®.

56. Merck supplies L-methylfolate as a bulk substance.

57. Merck’s licensees/customers then use METAFOLIN® brand L-methylfolate in various dietary supplements, medical foods, nutritional supplements, pregnancy vitamins, and food for special dietary use.

58. Merck also participates in the sale of finished products containing L-methylfolate through licensing arrangements with its licensees/customers.

59. Pursuant to its exclusive sublicense, PamLab markets and sells Neevo DHA®, METANX®, Cerefolin NAC®, and DEPLIN® all of which use METAFOLIN® as an ingredient.

60. Neevo DHA®, METANX®, Cerefolin NAC® and DEPLIN® are covered by one or more claims of the ’915, ’904, ’381, ’778, ’490 and/or ’040 patents.

C. Defendants’ Unlawful Conduct

61. Upon information and belief, Macoven is a generic pharmaceutical and nutraceutical company that develops, manufactures, markets and sells generic pharmaceutical products.

62. Upon information and belief, Gnosis S.p.A. Gnosis USA Inc. and Gnosis Bioresearch S.A. (collectively “Gnosis”) are biotechnology companies that manufacture and sell a wide range of raw materials for the pharmaceutical, nutraceutical, cosmetic and veterinary industries.