

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BELFER COSMETICS, LLC

Plaintiff,

vs.

RADNEY DAY SPA, LP and
CHAE ORGANICS, INC.

Defendants.

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Case No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Belfer Cosmetics, LLC (“Belfer”) brings this action against defendants Radney Day Spa, LP (“Radney”) and Chae Organics, Inc. (“Chae”) and alleges:

THE PARTIES

1. Belfer is a limited liability company organized and existing under the laws of the State of Texas, and the owner of the patents-in-suit, namely, U.S. Patent Nos. 7,566,464 and 8,025,907.

2. On information and belief, Radney is a limited partnership organized and existing under the laws of the State of Texas, has a principal place of business within this judicial district at 3222 Mercer Street, Houston, Texas 77027, and has designated its registered agent for purposes of service of process in Texas as Thom R. Cornish, 1 Sugar Creek Center Blvd., Suite 475A, Sugar Land, Texas 77478-3785.

3. On information and belief, Chae is a corporation organized under the laws of the State of Colorado, has a principal place of business at 5218 County Road 421, La Veta, Colorado

81055, and has designated its registered agent for purposes of service of process as Frank Edward Maggio, 5218 County Road 421, La Veta, Colorado 81055.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

5. Subject-matter jurisdiction over Belfer's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

6. On information and belief, each defendant has solicited business in this judicial district, transacted business within this judicial district, and attempted to derive financial benefit from residents of this judicial district, including benefits directly related to the instant patent infringement causes of action set forth herein.

7. On information and belief, Chae has placed its allegedly infringing products into the stream of commerce throughout the United States with the expectation that such products would be offered for sale, sold and/or used in this judicial district.

8. Each defendant is subject to personal jurisdiction in the State of Texas and this judicial district.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

COUNT I PATENT INFRINGEMENT [U.S. PATENT NO. 7,566,464]

10. On July 28, 2009, U.S. Patent No. 7,566,464 ("the '464 patent"), entitled "Cosmetic Composition To Accelerate Repair of Functional Wrinkles", was duly and legally issued. A Reexamination Certificate for the '464 patent issued on September 20, 2011. A true and correct

copy of the '464 patent with Reexamination Certificate is attached hereto as Exhibit A. Belfer is the owner by assignment of all right, title and interest in and to the '464 patent, including the right to sue for and recover all past, present and future damages for infringement of the '464 patent.

11. Upon information and belief, Radney and Chae have in the past and/or continue to infringe, contribute to infringement, and/or induce infringement of the '464 patent by making, using, selling, offering to sell and/or importing, and/or causing others to use, sell and/or offer to sell, skin care compositions that are covered by at least one claim of the '464 patent, including products sold under the name "NuAge Serum." Each defendant is liable for infringement of the '464 patent pursuant to 35 U.S.C. § 271.

12. Belfer's right to relief for infringement of the '464 patent against Radney and Chae is asserted with respect to and arises out of the same transaction, occurrence or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale or selling of the same above-identified accused product. Questions of fact common to infringement of the '464 patent by Radney and Chae will arise in this action.

13. Each defendant's acts of infringement have caused damage to Belfer, and Belfer is entitled to recover from defendants the damages sustained by Belfer as a result of each defendant's wrongful acts in an amount subject to proof at trial.

14. As a consequence of the infringement complained of herein, Belfer has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless each defendant is enjoined by this Court from committing further acts of infringement.

COUNT II
PATENT INFRINGEMENT
[U.S. PATENT NO. 8,025,907]

15. On September 27, 2011, U.S. Patent No. 8,025,907 (“the ‘907 patent”), entitled “Cosmetic Composition To Accelerate Repair of Functional Wrinkles”, was duly and legally issued. A true and correct copy of the ‘907 patent is attached hereto as Exhibit B. Belfer is the owner by assignment of all right, title and interest in and to the ‘907 patent, including the right to sue for and recover all past, present and future damages for infringement of the ‘907 patent.

16. Upon information and belief, Radney and Chae have in the past and/or continue to infringe, contribute to infringement, and/or induce infringement of the ‘907 patent by making, using, selling, offering to sell and/or importing, and/or causing others to use, sell and/or offer to sell, skin care compositions that are covered by at least one claim of the ‘907 patent, including products sold under the name “NuAge Serum.” Each defendant is liable for infringement of the ‘907 patent pursuant to 35 U.S.C. § 271.

17. Belfer’s right to relief for infringement of the ‘907 patent against Radney and Chae is asserted with respect to and arises out of the same transaction, occurrence or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale or selling of the same above-identified accused product. Questions of fact common to infringement of the ‘907 patent by Radney and Chae will arise in this action.

18. Each defendant’s acts of infringement have caused damage to Belfer, and Belfer is entitled to recover from defendants the damages sustained by Belfer as a result of each defendant’s wrongful acts in an amount subject to proof at trial.

19. As a consequence of the infringement complained of herein, Belfer has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by

such acts in the future unless each defendant is enjoined by this Court from committing further acts of infringement.

PRAYER FOR RELIEF

WHEREFORE, Belfer prays for entry of judgment that:

- A.** Each defendant has infringed the '464 patent and the '907 patent;
- B.** Each defendant account for and pay to Belfer all damages caused by its infringement of the '464 patent and the '907 patent in accordance with 35 U.S.C. § 284;
- C.** Belfer be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining each defendant and its respective officers, agents, servants, employees and those persons in active concert or participation with them from further acts of patent infringement;
- D.** Belfer be granted pre-judgment and post-judgment interest on the damages caused to it by reason of defendants' patent infringement complained of herein;
- E.** Belfer be granted its reasonable attorneys' fees;
- F.** Costs be awarded to Belfer; and,
- G.** Belfer be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Belfer demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: September 3, 2013

By: /s/ C. Dale Quisenberry

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