

United States District Court,
C.D. California, Southern Division.

ALLERGAN, INC., a Delaware corporation, and Murray A. Johnstone, M .D., an individual,
Plaintiffs.

v.

CAYMAN CHEMICAL COMPANY, a Colorado corporation; Jan Marini Skin Research Inc., a California corporation; Athena Cosmetics, Inc., a Nevada corporation; Athena Bioscience, LLC, a limited liability company; Intuit Beauty, Inc., a Nevada corporation; Photomedex, Inc., a Delaware corporation; Procyte Corporation, a Washington corporation; Cosmetic Alchemy, LLC, a limited liability company; and Global MDRx, a Nevada corporation,
Defendants.

No. SACV07-1316 JVS (RNBx)

Jan. 13, 2009.

Jeffrey T. Thomas, T. Kevin Roosevelt, Gibson, Dunn & Crutcher LLP, Irvine, CA, for Plaintiffs Allergan, Inc. and Murray A. Johnstone, M.D.

ORDER ON STIPULATION RE PATENT TERMS TO BE CONSTRUED

JAMES V. SELNA, District Judge.

Pursuant to the Stipulation of Plaintiffs Allergan, Inc. and Murray A. Johnstone, M.D. and Defendants Athena Cosmetics, Inc. and Cosmetic Alchemy, LLC to construction of patent terms,

IT IS HEREBY ORDERED that the following terms should be construed pursuant to the claim construction process:

A. Patent No. 6,262,105

1. "D is a chain having from 1 to 10 carbon atoms, optionally substituted with one or more-OH groups"

2. "the formula:



3. "The method of claim 1"

4. "The method of claim 5"
5. "PGF2a derivative"
6. "a derivative giving the final substance equivalent properties as a hair growth stimulating agent"

B. Patent No. 7,351,404

1. "X is-N(R⁴)₂"
2. "hydrocarbyl aryl radical"
3. "may be interrupted by one or more oxa radicals"

C. Both Patents

1. "A method for stimulating hair growth"
2. "A method for stimulating hair follicles to increase hair growth"
3. "A method for conversion of vellus hair or intermediate hair to growth as terminal hair"
4. "skin"
5. "an effective amount"

The parties' respective constructions for these terms are found in the Joint Claim Construction and Prehearing Statement Under Patent Local Rule 4-3 on file herein.

C.D.Cal.,2009.

Allergan, Inc. v. Cayman Chemical Co.

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