

AO 120 (Rev. 3/04)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Connecticut on the following Patents or Trademarks:

DOCKET NO. 3:08CV1578(JBA)	DATE FILED 10/15/08	U.S. DISTRICT COURT District of Connecticut	
PLAINTIFF Genx International, Inc.		DEFENDANT Mid-Atlantic Diagnostics, Inc.; Terrence Fortino	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1	See attached Complaint	See attached complaint	
2	6,013,199		
3			
4			
5			

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT	
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CLERK Robin D. Tabora	(BY) DEPUTY CLERK	DATE 10/22/08
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

GENX INTERNATIONAL, INC.,
a Connecticut corporation,

Plaintiff,

vs.

MID-ATLANTIC DIAGNOSTICS, INC.
a New Jersey Corporation

and

TERRENCE FORTINO,
an individual,

Defendants.

Civil Action No.

October 15, 2008

Plaintiff, GENX INTERNATIONAL, INC. ("genX" or "Plaintiff"), by its undersigned attorneys, for its causes of action against MID-ATLANTIC DIAGNOSTICS, INC. ("Mid-Atlantic") and TERRENCE FORTINO ("Terrence Fortino" or collectively with Mid-Atlantic "Defendants"), states and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement by Defendants, and arises under the patent laws of the United States, Title 35, United States Code.
2. This is an action for trademark infringement by Defendants under Section 32 of the Lanham Act, 15 U.S.C. § 1114 (Registered Trademark Infringement).
3. This is also an action for false or misleading description of fact under Section 43 of the Lanham Act, 15 U.S.C. §§ 1125 (a) and 1125 (b) by Defendants.

4. This is also an action for violation of the Connecticut Unfair Trade Practices Act ("CUTPA"), C.G.S. § 42-110a et seq. by Defendants.

5. Plaintiff seeks injunctive relief, Defendants' profits, Plaintiff's damages and the costs and attorney's fees arising from this action.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331, 1338, 1367, 15 U.S.C. §1116 and §1121.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

THE PARTIES

8. Plaintiff genX International, Inc. is a Connecticut corporation with its principal place of business at 393 Soundview Road, Guilford, Connecticut 06437.

9. On information and belief, Mid-Atlantic Diagnostics, Inc. is a New Jersey corporation having its principal place of business at 77 Elbo Lane, Mount Laurel, New Jersey 08054.

10. On information and belief, Terrence Fortino is an individual and the President of Mid-Atlantic currently residing at an address to be determined.

FACTUAL ALLEGATIONS

11. On January 11, 2000, U.S. Patent No. 6,013,199 (the "GenX Patent") entitled "Filtering System and Method for Incubators" was duly issued by the United States Patent and Trademark Office. All right, title and interest in the GenX Patent has been assigned to genX, which remains the sole owner of the GenX Patent. A copy of the GenX Patent is attached as Exhibit A.

12. Upon information and belief, commencing at some time unknown to genX and continuing to the present, Defendants, without genX's consent, started making, advertising, distributing, selling and/or offering for sale the UltraPure Inline Filter that infringes the GenX Patent (the "Patent Infringing Product") throughout the United States including the state of Connecticut. Two samples of Mid-Atlantic's promotional literature advertising the Patent Infringing Product are attached as Exhibit B.

13. Upon information and belief, Defendants have willfully infringed the GenX Patent by making, selling and offering for sale the Patent Infringing Product with full knowledge of the GenX Patent.

14. genX repeats and re-alleges the allegations of paragraphs 1-10 as if set forth in their entirety herein.

15. genX is the owner of U.S. Trademark Registration No. 3,471,572, registered on July 22, 2008, for the trademark INLINE covering "air filters for removing particulates, environmental contaminants and volatile organic compounds from the air stream of an incubator used for growing and culturing biological specimens" in International Class 11, which is used to identify and promote Plaintiff's goods (the "INLINE Mark"). A copy of U.S. Trademark Registration No. 3,471,572 is attached as Exhibit C.

16. The INLINE Mark is in full force and effect.

17. The INLINE Mark has been used in connection with the appropriate trademark registration symbol (®).

18. Upon information and belief, Defendants have actual knowledge of the INLINE Mark and genX's rights thereunder.

19. Since at least as early as 1997, genX has been a leader in developing new and advanced laboratory technologies and products for infertility, assisted reproduction, cell biology and other medical applications (also referred to herein as the "GenX Products") in the medical and science industries under the INLINE Mark.

20. Through such long term and continuous use of the INLINE Mark in connection with the GenX Products, genX has acquired a significant and valuable interest in and exclusive right to use the INLINE Mark as a source indicator for the GenX Products.

21. genX, as the exclusive manufacturer and distributor of GenX Products sold under the INLINE Mark in the United States, advertises, offers to sell and sells the GenX Products in connection with its INLINE Mark extensively throughout the United States.

22. genX has a number of authorized distributors of GenX Products outside of the United States, over which genX exercises strict quality control of any and all use of the INLINE Mark and GenX Products.

23. The GenX Products sold in connection with the INLINE Mark are promoted and marketed by genX through its company website and distribution network and the INLINE Mark appears in product literature, labeling and other methods customary in the relevant industry.

24. As a direct result of genX's long and extensive experience, care and skill in developing and providing high quality products in connection with the INLINE Mark, genX has established a reputation for excellence in the scientific and laboratory filtration industry.

25. genX has expended significant time, money and effort in advertising and promoting the GenX Products and INLINE Mark as symbols of quality.

26. As a result of these expenditures, combined with substantial sales of quality goods sold in connection with the INLINE Mark, the relevant consuming public has come to

recognize the INLINE Mark as identifying genX as the single source for such goods, which favorably distinguishes the GenX Products from those of others.

27. Upon information and belief, commencing at some time currently unknown to genX and continuing to the present, Defendant Mid-Atlantic, under direction from Defendant Terrence Fortino, without genX's consent, commenced manufacture, advertising, distributing, selling and offering for sale the UltraPure Inline Filter (the "Trademark Infringing Product") throughout the United States including the state of Connecticut (Defendants' "Infringing Activities"). Two samples of Mid-Atlantic's promotional literature advertising the Trademark Infringing Product are attached as Exhibit B.

28. In connection with the product description for the Trademark Infringing Product, Defendants' advertisements state that it contains a "Proprietary 2-stage filter" which in fact is proprietary to genX and not Defendants. Defendants' claim of proprietary ownership of the 2-stage filter is likely to cause confusion, mistake and deceive consumers into believing that MidAtlantic is the only entity from which to purchase these 2-stage filter devices.

29. At the time Defendants began their Infringing Activities, Defendants had every reason to know of genX's ownership of and rights in and to the INLINE Mark in conjunction with the GenX Products, including the significant goodwill associated with the INLINE mark.

30. Upon information and belief, Defendants have engaged in the Infringing Activities with knowledge of and in willful disregard of genX's exclusive rights in and to the INLINE Mark.

31. Defendants' unauthorized use of the INLINE Mark and continued sale and promotion of the Trademark Infringing Product is causing, and will continue to cause, unless the

injunction sought in this complaint is granted, irreparable injury to genX because genX has no ability to control the nature or quality of the Trademark Infringing Product.

32. genX's damages arise from lost profits from sales that are being diverted to Defendants, and from loss of any goodwill that has become associated with the INLINE mark.

33. Defendants are being unjustly enriched by their manufacture, use and commercial exploitation of the Trademark Infringing Product that infringe on the GenX Products sold under the INLINE Mark, which have developed substantial goodwill.

34. Upon information and belief, the Trademark Infringing Product is sold in the same channels of trade in which the GenX Products bearing the INLINE Mark are sold.

COUNT ONE:
INFRINGEMENT OF U.S. PATENT NO. 6,013,119

35. genX repeats and re-alleges the foregoing paragraphs of its Complaint, as if the same were fully set forth herein.

36. Defendants have directly infringed and continue to directly infringe, have induced and continue to induce, and/or have committed and continue to commit acts of contributory infringement of, one or more claims of the GenX Patent.

37. Defendants' acts of patent infringement were and continue to be willful and deliberate.

38. As a result of Defendants' infringement, genX has suffered damages in an amount not yet determined, and will continue to suffer damages in the future.

39. Unless an injunction is issued enjoining Defendants and their agents, servants, employees, attorneys, representatives and all others acting on its behalf from infringing the GenX Patent, genX will be greatly and irreparably harmed.

COUNT TWO:
REGISTERED TRADEMARK INFRINGEMENT
UNDER SECTION 32 OF THE LANHAM ACT, 15 U.S.C § 1114

40. genX repeats and re-alleges the foregoing paragraphs of its Complaint, as if the same were fully set forth herein.

41. Defendants' actions constitute infringement of the INLINE Mark in violation of genX's rights under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

42. As a direct result of Defendants' unlawful activities, genX has suffered and will continue to suffer damages in an amount presently unknown and to be ascertained at the time of trial.

43. Defendants' conduct has caused and will continue to cause injury to genX's goodwill and reputation, and will continue to both damage genX and the public unless enjoined by this Court.

COUNT THREE:
FALSE OR MISLEADING DESCRIPTION OF FACT, OR FALSE OR MISLEADING
REPRESENTATION OF FACT UNDER SECTION 43 OF THE LANHAM ACT, 15
U.S.C. §§ 1125 (A) AND 1125 (B)

44. genX repeats and re-alleges the foregoing paragraphs of its Complaint, as if the same were fully set forth herein.

45. The Infringing Activities include use of a false and misleading description of fact, and a false and misleading representation of fact that is likely to cause confusion, mistake and to deceive consumers in violation of genX's rights under Section 43 of the Lanham Act, 15 U.S.C. § 1125(a).

46. The Infringing Activities constitute commercial advertising and promotion that misrepresents the nature, characteristics, qualities and origin of the Infringing Product and

Defendants' commercial activities, in violation of genX's rights under Section 43 of the Lanham Act, 15 U.S.C. § 1125(b).

47. As a direct result of Defendants' unlawful activities, genX has suffered and will continue to suffer damages in an amount presently unknown and to be ascertained at the time of trial.

48. Defendants' conduct has caused and will continue to cause injury to genX's goodwill and reputation, and will continue to both damage genX and the public unless enjoined by this Court.

**COUNT FOUR:
VIOLATIONS OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT**

49. genX repeats and re-alleges the foregoing paragraphs of its Complaint, as if the same were fully set forth herein.

50. Defendants' actions, as set forth in the preceding paragraphs, are unfair and deceptive.

51. Defendants' actions, as set forth in the preceding paragraphs, offend public policy as it has been established by statutes and the common law.

52. The representations by Defendants in their promotional literature are misleading to consumers. These representations are likely to affect the conduct of consumers when consumers interpret Defendants' representations reasonably under the circumstances.

53. Defendants' actions, as set forth in the preceding paragraphs, cause substantial injury to consumers.

54. Defendants' actions have caused and continue to cause substantial injury to genX, which has resulted in an ascertainable loss of money and damage to the Plaintiff.

55. Defendants' actions are being undertaken in the conduct of trade and commerce.

56. Defendants' actions violate public policy and are immoral, unscrupulous, unethical, offend traditional common law concepts of fairness and are in violation of the Connecticut Unfair Trade Practices Act ("CUTPA"), C.G.S. § 42-110a et seq.

57. In accordance with C.G.S. § 42-110(g)(c), a copy of this complaint was mailed to the Attorney General and the Commissioner of Consumer Protection.

58. The above-described acts constitute unfair trade practices under CUTPA.

59. As a result of Defendants' violations of CUTPA, genX has been damaged in an amount to be ascertained at trial, and is entitled to collect its attorney fees.

DEMAND FOR RELIEF

WHEREFORE, GENX INTERNATIONAL, INC. respectfully requests that the Court enter judgment against Defendants as follows:

(a) Award genX a judgment on each of its claims in an amount to be determined at trial;

(b) Award damages adequate to compensate genX for the aforesaid infringement of the GenX Patent under 35 U.S.C. et seq. including genX's lost profits, but in no event less than a reasonable royalty;

(c) Declare this case exceptional and award genX treble damages under 35 U.S.C. § 284;

(d) Grant an order providing for the seizure of goods manufactured by Defendants;

(e) Issue a permanent injunction against the Defendants' current and future sales of any product in the field of laboratory equipment in conjunction with a trademark confusingly similar to the INLINE Mark;

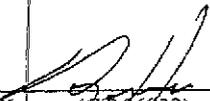
- (f) Award damages adequate to compensate genX for the aforesaid infringement under 15 U.S.C. § 1117(a);
- (g) Award the recovery of the Defendants' profits to genX under 15 U.S.C. § 1117(a);
- (h) Award the recovery of genX's costs of this action under 15 U.S.C. § 1117(a);
- (i) Declare this case exceptional and award genX its reasonable attorney fees under 15 U.S.C. § 1117(a);
- (j) Award punitive damages to genX pursuant to C.G.S. § 42-110(g);
- (k) Award genX its attorney fees pursuant to C.G.S. § 42-110(g) and 35 U.S.C. § 285; and
- (l) Provide such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action of all issues triable by jury in this matter.

Dated: October 15, 2008

GENX INTERNATIONAL, INC.
By Its Attorneys



Barry Kramer (CT 06932)
bkramer@capdlaw.com
George Chaclas (CT 24675)
gchaclas@capdlaw.com

EDWARDS ANGELL PALMER & DODGE, LLP
301 Tresser Boulevard
1 Stamford Plaza
Stamford, CT 06091
Telephone: 203-975-7505
Facsimile: 203-975-7180