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## Femina Pharma Announces CALJ's Initial Determination Finding Certain Internet Pharmacies in Default in Patent Dispute Concerning NuvaRing®



MIAMI, Aug. 2, 2011 /PRNewswire/ -- Femina Pharma Incorporated announced that Order No. 16 in Investigation No. 337-TA-768 (In the matter of Certain Vaginal Ring Birth Control Devices) was issued by the Chief Administrative Law Judge ("CALJ") at the United States International Trade Commission ("ITC") finding fourteen parties – thirteen Canadian Internet pharmacies and one U.S. Internet pharmacy -- in default.

On February 11, 2011, Femina Pharma Incorporated filed a complaint with the ITC for infringement of the 6,086,909 patent through the importation of certain vaginal ring birth control devices, including NuvaRing®. On June 20, 2011, CALJ Luckern issued a show cause order why the non-responding respondents should not be held in default. These parties did not respond and on July 12, 2011 Femina moved for entry of an Initial Determination. The Commission Investigative Staff did not oppose Femina's motion and Merck & Co., Inc., Schering Plough Corporation, Organon Inc. and N.V. Organon, Wal-Mart Stores, Inc., CVS, Inc., and Walgreen Inc. did not respond to Femina's motion. On July 28, 2011, CALJ Luckern issued Order 16: "Initial Determination Finding Certain Respondents in Default and certified the initial determination to the Commission." The initial determination will become the determination of the Commission unless within 30 days the Commission grants a petition for review or orders its own review of the initial determination.

This development follows the issuance of Order 14 by the CALJ that denied Merck's Motion for Summary Determination of Invalidity of U.S. Patent No. 6,086,909.

The defaulting parties include: The Canamerican Drugs Inc., The Canamerican Global Inc., Canadian Med Service, Panther Meds Inc., Canada Drugs Online, Drug World Canada, CanDrug Health Solutions Inc., Big Mountain Drugs, BestBuyRx.com, Blue Sky Drugs, ABC Online Pharmacy, Canadadrugs.com LP, North Drug Store, and Canada Pharmacy.

Joseph Matus Fuisz, CEO of Femina, stated: "We are pleased to see the case progress. After denial of Merck's Summary Determination of Invalidity, we now have an Initial Determination of default against fourteen parties that should eventually slow the unlawful importation of infringing NuvaRing® products from Canada. Certainly, the ability of Femina to discourage unlawful importation of the NuvaRing® using the '909 patent is a tangible indication of the '909 patent's value to proper, legal licensees."

NuvaRing® was acquired by Merck through its 2009 acquisition of Schering Plough.

Merck & Co., Inc., Schering Plough Corporation, Organon U.S.A., Inc., N.V. Organon, CVS Pharmacy, Inc., Wal-Mart Stores, Inc. and Walgreen Co.'s are represented in the action by Covington & Burling, LLP ([www.cov.com](http://www.cov.com)). Femina Pharma Incorporated is represented in the action by the Fuisz-Kundu Group LLP ([www.fuiszkundu.com](http://www.fuiszkundu.com)).

About Femina Pharma Incorporated:

Femina Pharma Incorporated is a vaginal drug delivery company formed through the acquisition of the vaginal drug delivery assets of UMD Inc. Femina Pharma is managed by Joseph Fuisz and Richard C. Fuisz, M.D. ([http://en.wikipedia.org/wiki/Richard\\_Carl\\_Fuisz](http://en.wikipedia.org/wiki/Richard_Carl_Fuisz)). The Fuiszes have made substantial contributions in drug delivery including orally dissolving tablets and novel particle coating systems at Fuisz Technologies; inventing and developing thin film drug delivery technologies at Kosmos Pharma and MonoSol Rx, as well as independently developing extruded sheet technology, and have extensive experience working with big and specialty pharma ([www.fuisz.com](http://www.fuisz.com)).

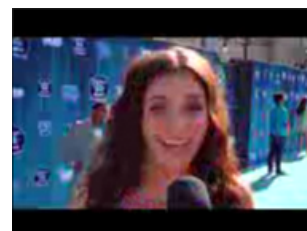
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