

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

COVANCE LABORATORIES INC.,

Plaintiff,

vs.

CHROMADEX, INC., AND
CHROMADEX ANALYTICS, INC.,

Defendants.

Case No. 1:19-cv-00065-RGA

DEMAND FOR JURY TRIAL

ANSWER TO COMPLAINT

Defendants ChromaDex, Inc., and ChromaDex Analytics, Inc. (collectively, “ChromaDex”) hereby answer Plaintiff Covance Laboratories Inc.’s (“Covance”) Complaint as follows:

NATURE OF THE ACTION

1. ChromaDex admits that it entered into an Asset Purchase Agreement, dated August 21, 2017 (“APA”) with Covance, the terms of which are fully contained in the APA. The remainder of Paragraph 1 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

2. ChromaDex admits that the “ComplyID library” is identified in section 2.1(f) of the APA. The remainder of Paragraph 2 states a legal conclusion for which no response is required. To the extent a response is required, except as expressly admitted, ChromaDex denies the allegations contained in Paragraph 2.

3. Paragraph 3 purports to summarize the present action for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

PARTIES

4. ChromaDex lacks knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 4 and on that basis denies it.

5. Admitted.

6. ChromaDex Analytics, Inc. admits that it is a Nevada corporation and that it is a wholly owned subsidiary of ChromaDex, Inc. ChromaDex Analytics, Inc.'s principal place of business is Irvine, California, and it denies that its principal place of business is Carson City, Nevada.

JURISDICTION AND VENUE

7. Paragraph 7 states a legal conclusion for which no response is required.

8. ChromaDex admits that Section 12.10 of the APA includes, among other language, the quoted phrases.

9. Paragraph 9 states a legal conclusion for which no response is required.

10. Paragraph 10 states a legal conclusion for which no response is required.

FACTUAL BACKGROUND

The Nature of Parties' Business

11. ChromaDex lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 and on that basis denies them.

12. ChromaDex denies that Paragraph 12 fully and accurately describes its business operations.

The Importance of Reference Standards in Consumer Product Testing

13-22. ChromaDex denies that Paragraphs 13-22 fully and accurately state or summarize: (a) the FDA's regulation of, or impact on, product testing; or (2) all processes for product testing and their relationship to consumers, global commerce, or public health.

Covance Purchases ChromaDex's Reference Standards

23. Admitted.

24. ChromaDex admits that it entered into the APA through which Covance purchased certain assets as identified in the APA. Except as expressly admitted, ChromaDex denies the allegations in paragraph 24.

25. ChromaDex denies that Paragraph 25 fully and accurately describes the assets that Covance purchased from ChromaDex.

26. ChromaDex admits that in entered into the APA, which contains all terms of the contract. Except as expressly admitted, ChromaDex denies the allegations contained in Paragraph 26.

27. Paragraph 27 contains a legal conclusion for which no response is required. To the extent a response is required, ChromaDex states that the APA contains all terms of the contract between Covance and ChromaDex. Except as expressly admitted, ChromaDex denies the allegations contained in Paragraph 27.

28. ChromaDex admits that Section 2.1(f) of the APA includes the partial quotation identified in Paragraph 28 without any emphasis. Except as expressly admitted, ChromaDex denies the allegations contained in Paragraph 28.

29. ChromaDex admits that in entered into the APA, which contains all terms of the contract. Except as expressly admitted, ChromaDex denies the allegations contained in Paragraph 29.

30. Paragraph 30 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex lacks knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 30 and on that basis denies it.

31. The first sentence of Paragraph 31 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein. ChromaDex denies the allegation contained in the second sentence of Paragraph 31.

32. Paragraph 31 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

Covance's Indemnification Claim Is Rejected

33. ChromaDex admits that Section 11.4 of the APA includes the partial quotation identified in Paragraph 33. Except as expressly admitted, ChromaDex denies the allegations contained in Paragraph 33.

34. ChromaDex admits that it received a correspondence purporting to be from Covance referencing Section 11.4 of the APA on or about October 9, 2018. Except as expressly admitted, ChromaDex denies the allegations contained in Paragraph 34.

35. ChromaDex admits that it denied any breach of the APA in a correspondence sent to Covance on or about October 19, 2018. Except as expressly admitted, ChromaDex denies the allegations contained in Paragraph 35.

36. Paragraph 36 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

CLAIMS FOR RELIEF

COUNT I

Specific Performance

37. ChromaDex incorporates by references its responses to paragraph 1 through 36 as if fully set forth herein.

38. Paragraph 38 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex admits that it entered into the APA. Except as expressly admitted, Chromadex denies the allegations contained in paragraph 38.

39. Paragraph 39 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex lacks knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 39 and on that basis denies it.

40. Paragraph 40 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

41. Paragraph 41 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

42. ChromaDex denies that Covance is entitled to any relief.

43. ChromaDex denies that Covance is entitled to any relief.

44. Paragraph 44 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

COUNT II

Breach of Contract

45. ChromaDex incorporates by references its responses to paragraph 1 through 44 as if fully set forth herein.

46. Paragraph 46 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

47. Paragraph 47 states a legal conclusion for which no response is required. To the extent a response is required, ChromaDex denies the allegations therein.

48. ChromaDex denies that Covance is entitled to any relief.

PRAYER FOR RELIEF

ChromaDex denies that Covance is entitled to any of the relief sought in the prayer or any relief whatsoever from ChromaDex.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, ChromaDex demands a trial by jury on all issues so triable.

AFFIRMATIVE DEFENSES

ChromaDex incorporates the foregoing paragraphs by reference. Nothing in these defenses, including without limitation the labeling of a defense as an affirmative defense, is intended to alter the identity of the party that bears the burden of proof as to any matter raised in any defense.

FIRST AFFIRMATIVE DEFENSE

1. The Complaint, and each and every purported cause of action alleged therein, fails to state a claim upon which relief against ChromaDex may be granted.

SECOND AFFIRMATIVE DEFENSE

2. Each of the purported claims set forth in the Complaint is barred by the doctrines of waiver, acquiescence, and estoppel.

THIRD AFFIRMATIVE DEFENSE

3. The Complaint fails, in whole or in part, based on the doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

4. The claims made in the Complaint are barred, in whole or in part, because of Covance's failure to mitigate damages, if such damages exist.

FIFTH AFFIRMATIVE DEFENSE

5. The claims made in the Complaint are barred, in whole or in part, under the doctrine of unclean hands.

SIXTH AFFIRMATIVE DEFENSE

6. On information and belief, damages, if any, that were allegedly sustained by Covance as a result of the acts complained of were caused, in whole or in part, or were contributed to by reason of the acts, omissions, negligence and/or intentional misconduct of Covance or its agents.

SEVENTH AFFIRMATIVE DEFENSE

7. Covance is not entitled to equitable relief, including but not limited to specific performance, because there is an adequate remedy at law.

EIGHTH AFFIRMATIVE DEFENSE

8. Covance's claims are barred, in whole or in part, because Covance's damages, if any, were not caused by ChromaDex.

NINTH AFFIRMATIVE DEFENSE

9. Without admitting the Complaint states a claim, ChromaDex maintains that Covance has suffered no damages by reason of the acts alleged in the Complaint. The relief prayed for in the Complaint therefore cannot be granted.

TENTH AFFIRMATIVE DEFENSE

10. Covance's claim for specific performance is barred because Covance has not shown, and cannot show, that it will suffer any irreparable harm from ChromaDex's alleged conduct.

ELEVENTH AFFIRMATIVE DEFENSE

11. Any claim for relief is barred because Covance has breached its obligations under the APA.

TWELFTH AFFIRMATIVE DEFENSE

12. Any claim for relief is barred based on the doctrines of accord and satisfaction.

THIRTEENTH AFFIRMATIVE DEFENSE

13. Any claim for relief is barred because such relief would result in Covance's unjust enrichment.

FOURTEENTH AFFIRMATIVE DEFENSE

14. Covance is not entitled to any relief based on the doctrines of impossibility, impracticability, and/or frustration of purpose.

FIFTEENTH AFFIRMATIVE DEFENSE

15. The Complaint fails because Covance improperly seeks to use extrinsic evidence to alter the terms of the fully integrated APA.

SIXTEENTH AFFIRMATIVE DEFENSE

16. The Complaint fails based on the statute of frauds because and to the extent Covance seeks to impose obligations beyond those expressly contained in the fully integrated APA.

SEVENTEENTH AFFIRMATIVE DEFENSE

17. To the extent Covance is entitled to any relief, ChromaDex is entitled to a setoff based on the benefits it has already provided to Covance.

ADDITIONAL DEFENSES

18. ChromaDex reserves the right to assert additional defenses as additional facts and theories are developed through the course of this litigation.

PRAYER FOR RELIEF

WHEREFORE, ChromaDex prays as follows:

1. That judgment be entered in favor of ChromaDex and against Covance, and that Covance's action be dismissed entirely with prejudice;
2. That Covance take nothing against ChromaDex by reason of the Complaint;
3. That ChromaDex be awarded its costs of defending against this suit, including reasonable attorneys' fees and other disbursements; and
4. For such other relief as the Court deems just and proper.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ R. Judson Scaggs

R. Judson Scaggs (#2676)
Elizabeth A. Mullin (#6380)
1201 N. Market Street
Wilmington, DE 19801
(302) 658-9200
rscaggs@mnat.com
emullin@mnat.com

*Attorneys for Defendants ChromaDex, Inc. and
ChromaDex Analytics, Inc.*

OF COUNSEL:
Joe Tuffaha
Prashanth Chennakesavan
LTL Attorneys
300 S. Grand Avenue
14th Floor
Los Angeles, California 90071
(213) 612-8900

February 4, 2019

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2019, I caused the foregoing to be electronically filed with the Clerk of Court using CM/ECF, which will send notification of such filing to all registered participants.

/s/ Elizabeth A. Mullin

Elizabeth A. Mullin (#6380)