

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

John M. Agnello
Melissa E. Flax
CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
5 Becker Farm Rd.
Roseland, NJ 07068
Telephone: 973.994.1700
Facsimile: 973.994.1744

Kenneth J. Jurek
Daniel N. Christus
Linda A.O. Lamberson
McDERMOTT WILL & EMERY LLP
227 West Monroe Street, Suite 4400
Chicago, Illinois 60606-5096
Telephone: 312.372.2000
Facsimile: 312.984.7700

ATTORNEYS FOR MARS, INC.

_____)	
MARS, INC.,)	
)	
Plaintiff,)	Civil Action No. 2:07-CV-1574 (SRC)(MF)
)	
vs.)	
)	ORDER TO SHOW CAUSE
NATRACEUTICAL, S.A., NATRA U.S.,)	
INC.)	
)	
Defendants.)	
_____)	

THIS MATTER having been opened before the court by Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein (by John M. Agnello, Esq.) and McDermott Will & Emery LLP (by Kenneth J. Jurek, Esq.), attorneys for plaintiff Mars, Inc. upon the Declaration of Melissa E. Flax In Support of Plaintiff's Application for an Order to Show Cause and the exhibits and declarations referenced therein and Plaintiff's Memorandum in Support of its Application for an Order to Show

Cause for a preliminary injunction and for expedited discovery; and the Court having considered those submissions and the arguments of counsel; and it appearing that notice of plaintiff's application for the execution of this order was given via Federal Express to defendant Natra U.S., Inc., c/o National Registered Agents, Inc. of New Jersey, 100 Canal Pointe Blvd., Ste 108, Princeton, NJ 08540, and Natraceutical, S.A. at c/o Natra U.S., Inc., 1059 Tierra Del Rey, Ste. H, Chula Vista, CA 91910, c/o J. Michael Wilson, 591 Camino De La Reina, Mission Valley, CA 92108, and at Autovia A-3, Salida 343, Cami de Torrent, a/n., 46930 Quart de Poblet, Valencia, Spain; and for good cause shown;

IT IS on this _____ day of April, 2007,

ORDERED that defendants, Natraceutical, S.A. and Natra U.S., Inc. show cause before this Court, at the Frank R. Lautenberg United States Post Office & Courthouse Building, Federal Square, Newark, New Jersey, on the ____ day of _____, 2007 at _____ o'clock __.m. or as soon thereafter as counsel may be heard why a preliminary injunction should not issue (i) enjoining and restraining defendants and their officers, directors, employees, agents, subsidiaries, licensees, servants, successors and assigns, and any and all persons acting in privity or in concert or participation with defendants from infringement of U.S. Patent Nos. 6,312,753 and 6,790,966; (ii) enjoining and restraining defendants and their officers, directors, employees, agents, subsidiaries, licensees, servants, successors and assigns, and any and all persons acting in privity or in concert or participation with defendants from engaging in any exhibition, marketing or sales activities regarding CocoanOX at the IFT Expo in Chicago, Illinois in July 2007; and (iii) granting such further relief as the Court may consider appropriate and just; and

IT IS FURTHER ORDERED that the parties shall be entitled to take expedited discovery prior to the return date of this Order to Show Cause as follows:

a. The parties may immediately serve Notices to Produce Documents upon each other. Written responses thereto, including any objections, and the responsive documents shall be served within fourteen (14) calendar days after service of the Notice to Produce. Any disputes over objections to particular document requests shall be resolved by letter application to Magistrate Judge Mark Falk.

b. The parties may immediately serve no more than five (5) Interrogatories, including all discrete subparts, upon each other. Written responses thereto, including any objections, shall be served within five (5) calendar days after service of the Interrogatories. Any disputes over the responses and/or objections shall be resolved by letter application to Magistrate Falk.

c. The parties may immediately notice depositions of parties on seven (7) days' notice for locations to be agreed upon by counsel. The time limitations set forth in Rule 30 shall not apply. If the date and time for any deposition cannot be agreed upon between the parties, they shall be fixed by Magistrate Falk upon application of any party, which application may be made on an expedited basis by letter and may be decided by telephone conference as scheduled by Magistrate Falk.

d. The parties may immediately serve subpoenas on third parties for documents and deposition testimony. Disputes relating to subpoenas shall be submitted to Magistrate Falk in accordance with the procedure in paragraph c above.

e. Defendants are directed to preserve all documents and other evidence, including but not limited to files, data or communications in electronic form relating to the subject matter of this litigation; and

IT IS FURTHER ORDERED that service of copies of this Order to Show Cause, the Declaration of Melissa E. Flax and the exhibits and declarations referenced therein and plaintiff's

memorandum, shall be made upon the defendant Natra U.S., Inc., c/o National Registered Agents, Inc. of New Jersey, 100 Canal Pointe Blvd., Ste 108, Princeton, NJ 08540, by personal service within ____ days of the date hereof and upon Natraceutical, S.A. by overnight delivery at c/o Natra U.S., Inc., 1059 Tierra Del Rey, Ste. H, Chula Vista, CA 91910, c/o J. Michael Wilson, 591 Camino De La Reina, Mission Valley, CA 92108, and at Auovia A-3, Salida 343, Cami de Torrent, a/n., 46930 Quart de Poblet, Valencia, Spain, within __ days of the date hereto; and

IT IS FURTHER ORDERED that defendants' opposing declarations and any briefs shall be filed and served upon plaintiff's counsel on or before the ____ day of _____, 2007; and

IT IS FURTHER ORDERED that plaintiff's reply declarations and any reply briefs shall be filed and served upon defendants on or before the ____ day of _____, 2007.

STANLEY R. CHESLER, U.S.D.J.