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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

JAMES V. SIRACUSANO, On Behalf of Himself and All Others Similarly Situated, Plaintiff, vs. MATRIXX INITIATIVES INC.; CARL J. JOHNSON; WILLIAM J. HEMELT; and TIMOTHY L. CLAROT, Defendants.	Civ. No. 04-0886-PHX-DKD (Consolidated) CLASS ACTION CONSOLIDATED AMENDED COMPLAINT FOR VIOLATION OF THE FEDERAL SECURITIES LAWS

INTRODUCTION

1. This is a federal securities class action on behalf of purchasers of the publicly traded securities of Matrixx Initiatives Inc. ("Matrixx" or the "Company") between October 22, 2003 and February 6, 2004, inclusive (the "Class Period").

2. Defendant Matrixx is engaged in the development, manufacture and marketing of over-the-counter pharmaceuticals. During the Class Period, Matrixx only directly employed 15 people as it chose to outsource many of its corporate functions. Through its main operating wholly-owned subsidiary Zicam, LLC, Matrixx sells several products under the Zicam name, all of which are used for the treatment of the common cold and associated symptoms. The Zicam brand is Matrixx's core brand and, during the Class Period, made up both 100% of the Company's net sales, gross profit and growth. One of Matrixx's most popular products is the Zicam Cold Remedy, which accounted for approximately 70% of Zicam Class Period sales. This product was marketed as "the only nasal product on the market that has been clinically proven to reduce the duration of the common cold." Zicam Cold Remedy can be applied in several forms, including a nasal spray and a gel. Zicam Cold Remedy, and other of the Company's cold-fighting products, rely on a compound called zinc gluconate as the active ingredient.

3. In September 2003, prior to the start of the Class Period, defendants learned that numerous users of their Zicam product had experienced anosmia, which is a total loss of smell and that, as detailed herein, medical researchers at the University of Colorado School of Medicine had prepared a presentation for the fall meeting of the American Rhinologic Society which identified 10 patients who had lost their sense of smell after using Zicam including a detailed case study of one of those patients.

4. Despite their knowledge of the University of Colorado research and the anosmia cases, defendants failed to disclose this material information in any public statement or Securities and Exchange Commission ("SEC") filing. Instead, defendants instituted measures to prevent the University of Colorado Researchers from referencing Zicam in any report of their findings. Specifically, Matrixx informed Dr. Jafek that "as a legal matter" he

did "not have their permission to use their company name or product trademarks" in the poster reporting the University of Colorado research at the American Rhinologic Society September 20, 2003 Fall Science meeting. In response to the Company's demand, Dr. Jafek deleted any reference to Zicam or Matrixx from the poster presenting his research at the American Rhinologic Society meeting.

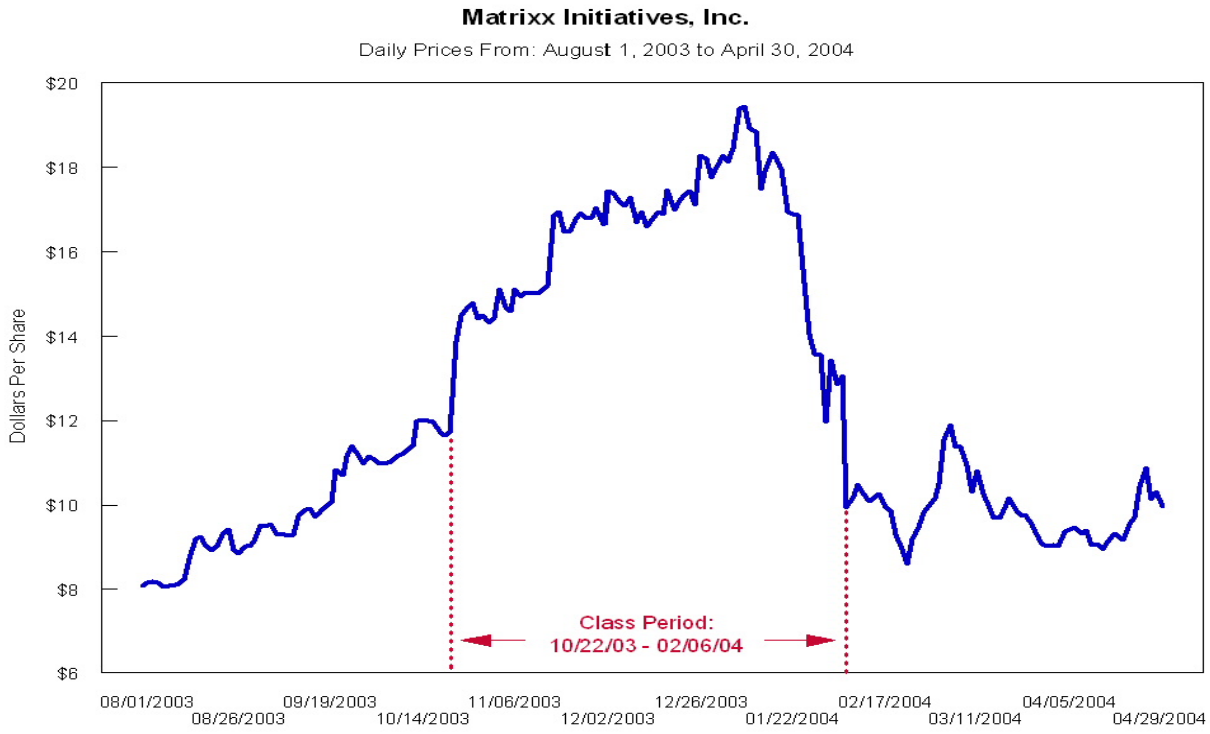
5. Throughout the Class Period, Matrixx touted the growth of its business, reporting triple-digit growth in revenue and income, highlighting the increased success of its Zicam cold remedies without any disclosure of the University of Colorado Research or the known adverse health effects of Zicam. The Company's Class Period representations to the investing public were, materially false and misleading when made because they failed to disclose the findings of the University of Colorado School of Medicine researchers and that the Company was already subject to lawsuits alleging that the Company's zinc-based products had caused anosmia. In addition, the Company's SEC filings purported to warn investors that the potential for product liability lawsuits presented a material risk to the Company, but failed to disclose that such lawsuits had ***already*** been filed. The first action was filed on October 14, 2003, in the United States District Court for the Western District of Michigan (No. 4:03-cv-0146-HWB), prior to the beginning of the Class Period.

6. Then, on January 30, 2004, an article published over the *Dow Jones Wire* revealed that the FDA was investigating a potential link between Matrixx products and anosmia and that three product liability lawsuits had alleged that the Company's product had caused the plaintiffs to develop anosmia.

7. On February 2, 2004, the Company, seeking to limit the damage to its stock price issued a press release representing that "statements alleging that intranasal Zicam products cause anosmia (loss of smell) are completely unfounded and misleading." The Company further represented that "[i]n no clinical trial of intranasal zinc gluconate gel products has there been a single report of lost or diminished olfactory function (sense of smell)." Such statements were materially false and misleading because, as the Company would later admit, it had conducted no clinical study examining the relationship between

zinc gluconate gel and anosmia and that defendants had been informed of research linking both Zinc generally and their product specifically to loss of smell, by researchers at the University of Colorado School of Medicine and a specialist at the Smell & Taste Research Foundation, Ltd.

8. On February 6, 2004, a nationally-broadcast story on *Good Morning America* which featured Dr. Jafek and his research, reported the adverse health risks associated with Zicam and that at least four lawsuits were filed alleging that the Company's products had caused anosmia and that numerous similar actions were expected to be filed. In reaction to the *Good Morning America* story featuring Dr. Jafek and his findings, the price of Matrixx common stock plummeted, falling from $13.05 per share on February 5, 2004, to close at $9.94 per share on February 6 – a one-day drop of 23.8% on unusually heavy trading volume.



9. On February 6, 2004, Matrixx issued a press release entitled "Reaffirm[ing] safety of intranasal Zicam Cold Remedy." This statement as well as each of the Company's earlier statements regarding the safety of Zicam, were materially false and misleading as

defendants failed to disclose the existence of the University of Colorado School of Medicine findings or the existence of numerous users of Zicam who were experiencing a total loss of smell.

10. On March 4, 2004, reporter John Ferrugia, who had been the reporter on the *Good Morning America* segment, reported, on news website *TheDenverChannel.com* (an affiliate of ABC News), that "Zicam Admits No Studies Done on Loss of Smell." According to the article, "[t]he makers of the nationally advertised cold remedy Zicam now admit that they don't know if their nasal gel could cause loss of smell."

JURISDICTION AND VENUE

11. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act") 15 U.S.C. §§78j(b) and 78t(a) and Rule 10b-5 promulgated thereunder by the SEC 17 C.F.R. §240.10b-5.

12. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331 and 1337 and §27 of the Exchange Act 15 U.S.C. §78aa.

13. Venue is proper in this district pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b). Matrixx maintains its principal and executive offices in this district and many of the acts charged herein, including the preparation and dissemination of materially false and misleading information, occurred in substantial part in this district.

14. In connection with the acts alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

PARTIES

15. Lead Plaintiff NECA-IBEW PENSION FUND (THE DECATUR PLAN) purchased Matrixx publicly traded securities during the Class Period, as detailed in the certification previously filed with the Court and has been damaged thereby.

16. Defendant Matrixx is organized under the laws of the State of Delaware and maintains its principal executive offices at 4742 North 24th Street, Suite 455, Phoenix, Arizona 85016.

17. Defendant Carl J. Johnson ("Johnson") was Matrixx's Chief Executive Officer, President and a director, throughout the Class Period.

18. Defendant William J. Hemelt ("Hemelt") was Matrixx's Chief Financial Officer and Executive Vice President.

19. Defendant Timothy L. Clarot ("Clarot") was Matrixx's Vice President and Director of Research and Development.

20. Defendants Johnson, Hemelt and Clarot are referred to collectively herein as "Individual Defendants."

21. During the Class Period, each of the Individual Defendants, as senior executive officer and/or director of Matrixx was privy to confidential and proprietary information concerning Matrixx, its operations, finances, financial condition, present and future business prospects. The Individual Defendants also had access to material adverse non-public information concerning Matrixx, as discussed in detail below. Because of their positions with Matrixx, the Individual Defendants had access to non-public information about its business, finances, products, markets and present and future business prospects via access to internal corporate documents, conversations and connections with other corporate officers and employees, attendance at management and Board of Directors meetings and committees thereof and via reports and other information provided to them in connection therewith. Because of their possession of such information, the Individual Defendants knew or recklessly disregarded the fact that adverse facts specified herein had not been disclosed to and were being concealed from, the investing public.

22. Each of the defendants is liable as a direct participant in and co-conspirator with respect to the wrongs complained of herein. In addition, defendants Johnson and Hemelt, by reason of their status as senior executive officers and directors were each a "controlling person" within the meaning of §20 of the Exchange Act and had the power and

influence to cause the Company to engage in the unlawful conduct complained of herein. Because of their positions of control, defendants Johnson and Hemelt were able to and did, directly or indirectly, control the conduct of Matrixx's business.

23. The Individual Defendants, because of their positions with the Company, controlled and/or possessed the authority to control the contents of its reports, press releases and presentations to securities analysts and through them, to the investing public. The Individual Defendants were provided with copies of the Company's reports and press releases alleged herein to be misleading, prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Thus, the Individual Defendants had the opportunity to commit the fraudulent acts alleged herein.

CONCEALED ADVERSE INFORMATION REGARDING ZICAM

24. Defendants were aware prior to the start of the Class Period that numerous users of their Zicam product had experienced a rare condition known as anosmia. Numerous cases of anosmia were observed by researchers at the University of Colorado School of Medicine, Department of Otolaryngology, The Rocky Mountain Taste and Smell Center ("RMTSC")[1] and the Smell & Taste Treatment and Research Foundation Ltd.

25. Dr. Alan Hirsch M.D., F.A.C.P., Neurological Director of the Smell & Taste Treatment and Research Foundation, Ltd., first recognized the possible link between Zicam nasal gel and a loss of smell in a cluster of his patients in 1999 shortly after the product came on the market. In December 1999, Hirsch called Matrixx's customer service line to inquire into the amount of zinc contained in Zicam nasal gel. Hirsch spoke with a Mr. Laundau. Hirsch told Laundau about at least one patient who developed anosmia after using Zicam in the absence of a cold. Hirsch also mentioned to Laundau that previous studies had demonstrated that intranasal application of zinc could be problematic, but Laundau indicated

[1] The RMTSC, a NIH Program Project Grant, is a collaborative research effort by the Departments of Cellular & Structural Biology and Otolaryngology at the University of Colorado School of Medicine which is dedicated to the study of taste and smell under normal and diseased conditions in human and animal models.

that he was not aware of these studies. Hirsch further told Laundau that he was willing to conduct a clinical study on the issue, but was "told 'no' at that time."

26. In September of 2002, Timothy L. Clarot, Matrixx's Vice President, Research and Development[2] called Miriam R. Linschoten, Ph.D., of the University of Colorado Health Sciences Center concerning Zicam customer complaints related to loss of smell. During this call, Linschoten referenced previous studies linking zinc sulfate to loss of smell. Linschoten expressed her concern to Clarot over the lack of information regarding the Zicam product, that is available over-the-counter, with no warning that it could cause users to suffer a loss of smell. Clarot had called Linschoten because one of the several patients she had treated at the RMTSC for loss of smell after she had used Zicam, had also complained to Matrixx. In addition to her patient, Clarot informed Linschoten that Matrixx had also received complaints from other customers who experienced a loss of smell following use of Zicam nasal gel. Matrixx had received customer complaints of loss of smell as early as 1999. Linschoten asked Clarot whether Matrixx had done any studies. Clarot responded that Matrixx had not, but that it had hired a consultant to review the product. Linschoten mentioned existing studies that linked zinc sulfate to loss of smell, but Clarot gave her the impression that he had not heard of these studies. Linschoten then offered to send Clarot information regarding these studies.

27. On September 20, 2002, Linschoten sent an email as promised to Clarot which included abstracts on the link between zinc sulfate and loss of smell. Zinc's toxicity had been confirmed by studies from the 1930s and work with fish in the early 80s. Linschoten received a phone call from Clarot not too long after she sent her September 20, 2002 email. Clarot inquired in this call as to whether she would participate in animal studies that Matrixx

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[2] According to the Matrixx website Timothy L. Clarot oversees regulatory compliance activities, supply chain management, materials and product development, information technology and consumer affairs.

was planning to conduct. Linschoten responded that she did not want to participate, as she focuses on human research and not animal research.

28. As of September of 2003, Dr. Bruce Jafek of the University Colorado School of Medicine had observed 10 patients suffering from anosmia following Zicam use. Dr. Jafek, Dr. Linschoten and a colleague planned to submit their findings via a September 20, 2003 poster presentation to the American Rhinologic Society. Prior to the meeting scheduled for September 20, 2003, the American Rhinologic Society posted abstracts of scheduled presentations. Jafek, Linschoten and Murrow's abstract, entitled, "Zicam® Induced Anosmia," was posted along with the other scheduled presentation abstracts. The University of Colorado School of Medicine research provided a detailed description of one of the patients they had diagnosed with anosmia following Zicam use. A 55 year old man with previously normal taste and smell who had developed clear rhinitis and congestion and treated himself with Zicam. On spraying his nose, he noted severe burning. This was followed immediately by loss of smell. In addition to the one detailed case, the University of Colorado researchers reported 10 other Zicam users with similar symptoms as of September of 2003.

29. On September 12, 2003, Matrixx sent a letter to Jafek stating that he did not have permission to use Matrixx's name or the names of its products. The letter was signed by Clarot. Jafek responded to Matrixx after consulting with the university attorney, seeking permission to use the names. Matrixx responded with another letter, "no." Thus, instead of disclosing this critical research to the public, defendants demanded that the University of Colorado researchers cease referring to Zicam in their poster describing their research. At that point, Jafek had to physically cut out all instances of the word "Zicam" in his poster presentation. The poster was presented to the American Rhinologic Society without specifically referring to the product. Jafek's findings regarding Zicam were ultimately disclosed to the public on February 6, 2004 on *Good Morning America*.

30. As of April of 2004, Dr. Jafek had evaluated over 100 cases of anosmia following Zicam use. Dr. Linschoten estimates that she has been in contact with

approximately 65 patients who have experienced a loss of smell following use of Zicam nasal gel. She has "no doubt" that Zicam has an "immediate effect." The patients she has been in contact with complain of an "immediate, severe burning" immediately following use of Zicam nasal gel, followed by a loss of smell. Some of her patients partially regained their sense of smell after a few months, but none of her patients have "completely recovered yet." Dr. Jafek's and Dr. Linschoten's findings that "[z]inc ions are toxic to olfactory epithelium" and that "[r]eports of severe hyposmia with parosmia or anosmia appear to be related to the intranasal use of zinc gluconate [Zicam Cold Remedy]" were later published in the May/June issue of the *American Journal of Rhinology*.

31. Both Drs. Jafek and Hirsch have observed that the Zicam nasal spray does reach the upper area of the nasal cavity where smell reception occurs. Dr. Jafek observed that Zicam nasal gel would "hit the ceiling" if opened and squeezed. Late in 2002 Zicam introduced a cold remedy swab product which when used would not be propelled into the upper area of the nasal cavity.

MATERIALLY FALSE AND MISLEADING STATEMENTS DURING THE CLASS PERIOD

32. On October 22, 2003, Matrixx issued a press release announcing its operational results for the third quarter of 2003. According to the release, net sales increased by 164% over the third quarter of 2002, while net income nearly tripled:

> Matrixx Initiatives, Inc. . . . developer and distributor of the expanded line of Zicam(®) products, today announced net sales of $13.4 million for the third quarter of 2003, a 163 percent increase versus $5.1 million in the comparable quarter of 2002. Net income for the quarter was $2.8 million or $0.29 per share, versus $1.0 million, or $0.11 per share for the third quarter of 2002.
>
> Net sales for the nine month period ended September 30, 2003 were $25.3 million, a 111 percent increase over the $12.0 million reported for the comparable nine month period last year. Net income for the first nine months of this year increased 114 percent to $2.3 million, or $0.25 per share, compared to $1.1 million, or $0.11 per share, for the comparable period last year.

Defendant Johnson commented on the favorable results, highlighting the efficacy of the Zicam products:

> "The financial results for the third quarter and nine month period are clear indications that the execution of our strategic business plan has continued on track. We are solidly profitable and cash flow positive while having made substantial investments in advertising, marketing and research and development. These targeted investments are translating into expanded brand awareness and product acceptance by an increasingly sophisticated consumer market. We are very pleased with our results."
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> * * *
>
> Mr. Johnson continued, "The Zicam brand is poised for growth in the upcoming cough and cold season with improved retail exposure by virtue of three unique oral delivery forms of our Zicam Cold Remedy product, the resumption of our television advertising campaigns in recent weeks and the momentum from last year's successful season. Additionally, our retail partners have come to rely on the Zicam brand not only as an efficacious product for their customers, but also for the profitability that Zicam branded products produce for their respective bottom-lines."

These statements were materially false and misleading because the defendants were aware but failed to disclose that Zicam posed a material health risk to consumers, as numerous users of the Zicam product had suffered a complete loss of smell. Defendants were aware as of September 2003, that researchers at the University of Colorado had linked Zicam and its operative ingredient to anosmia.

33. On October 23, 2003, defendants convened a conference call with financial analysts following the Company. During the conference call defendant Johnson stated that "retail results through October suggest that retail sales . . . are up 95%" and that "we are extremely encouraged at this point in time" as the Company has "very strong momentum going into the upcoming cough and cold season." Johnson further reiterated that:

> [W]hat lies behind these results is a unique product in the Zicam product line. A product that offers a unique benefit, the ability for consumers to actually reduce the duration and severity of the common cold, not just mask the symptoms.

These statements were materially false and misleading as defendants were aware, but failed to disclose, that researchers at the University of Colorado had reported a link between Zicam and anosmia and that use of Zicam posed a material health risk to consumers, which when disclosed would adversely affect the Company's business.

34. Defendant Johnson further stated that the Company was "extremely well positioned for a successful 2003/2004 cough/cold season." During the conference call defendant Hemelt stated that sales:

> [M]ore than doubled for the three months ended September 30 from the third quarter of last year. Sales increased 163% to 13.4 million dollars compared to 5.1 million dollars, last year. Earnings per share on a fully diluted basis for the third quarter increased 29 cents from 11 cent in 2002. The growth in sales was driven by increased sales of all ten of our Zicam products.

Defendant Johnson further stated that "our expectation for the full year is that our revenues will be up in excess of 50% and that earnings, per share for the full year will be in the 25 to 30 cent range." These statements were materially false and misleading as defendants were aware but failed to disclose that Zicam products, which were responsible for the Company's sales growth, posed a material health risk to consumers, which when disclosed would adversely affect the Company's business.

35. On November 12, 2003, Matrixx filed its quarterly report for the third quarter of 2003 on Form 10-Q with the SEC. The report reiterated the results announced in the October 22, 2003 press release and was signed by defendants Johnson and Hemelt. In a section of the report titled "Risk Factors," the Company purported to warn of the material risk posed by product liability actions that potentially could be filed against the Company, representing that even a single claim, regardless of merit, can have materially negative consequences for the Company:

> ***We may incur significant costs resulting from product liability claims***.
>
> We are subject to significant liability should use or consumption of our products cause injury, illness or death. Although we carry product liability insurance, there can be no assurance that our insurance will be adequate to protect us against product liability claims or that insurance coverage will continue to be available on reasonable terms. A product liability claim, even one without merit or for which we have substantial coverage, could result in significant legal defense costs, thereby increasing our expenses and lowering our earnings. Such a claim, whether or not proven to be valid, could have a material adverse effect on our product branding and goodwill, resulting in reducing market acceptance of our products. This in turn could materially adversely affect our results of operations and financial condition.

These statements were materially false and misleading as defendants failed to disclose that a lawsuit alleging that Zicam caused anosmia had already been filed and, given the findings of

the researchers at the University of Colorado it was highly likely that additional suits would be filed in the future.

36. In addition, as required by §302 of the Sarbanes-Oxley Act of 2002, the quarterly report contained certifications signed by defendants Johnson and Hemelt representing, among other things, that:

> Based on my knowledge, this report does not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

37. On January 7, 2004, Matrixx issued a press release announcing that the Company was revising its guidance for the 2003 year upwards and that it expected its 2003 revenues to grow by 80% from 2002:

> Matrixx Initiatives, Inc. . . . developer and distributor of the expanded line of Zicam® Cold Remedy products, today upwardly revised its guidance for fiscal year 2003. The Company expects total 2003 revenues to grow by greater than 80 percent compared to 2002 and fully diluted earnings per share to be in the range of $0.33 to $0.38. In 2002 Matrixx reported net sales of $23.5 million and earnings per share of $0.14 (exclusive of a one-time deferred tax asset accrual). This updates the Company's previous guidance of a 50% increase in revenue and earnings per share of $0.25-$0.30. The increase in the guidance for 2003 reflects a much greater incident of colds than previously anticipated.

38. On February 2, 2004, Matrixx issued a press release which stated:

> All Zicam products are manufactured and marketed according to FDA guidelines for homeopathic medicine. Our primary concern is the health and safety of our customers and the distribution of factual information about our products. Matrixx believes statements alleging that intranasal Zicam products cause anosmia (loss of smell) are completely unfounded and misleading.
>
> In no clinical trial of intranasal zinc gluconate gel products has there been a single report of lost or diminished olfactory function (sense of smell). Rather, the safety and efficacy of zinc gluconate for the treatment of symptoms related to the common cold have been well established in two double-blind, placebo-controlled, randomized clinical trials. In fact, in neither study were there any reports of anosmia related to the use of this compound. The overall incidence of adverse events associated with zinc gluconate was extremely low, with no statistically significant difference between the adverse event rates for the treated and placebo subsets.
>
> A multitude of environmental and biologic influences are known to affect the sense of smell. Chief among them is the common cold. As a result, the population most likely to use cold remedy products is already at increased risk of developing anosmia. Other common causes of olfactory dysfunction include age, nasal and sinus infections, head trauma, anatomical obstructions, and environmental irritants.

39. The statements referenced above in ¶¶36-38 were each materially false and misleading because they failed to disclose and misrepresented the following material adverse facts, among others:

(a) by the beginning of the Class Period, a lawsuit had been filed against the Company alleging that the Company's zinc gluconate-based products had caused plaintiffs to suffer from anosmia and that at least three other similar lawsuits had been filed during the Class Period;

(b) evidence questioning the safety of the Company's mainstay cold medication had surfaced by the beginning of the Class Period and was mounting;

(c) the Company's express assurances that the 10-Q "does not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report" were materially false and misleading because the report omitted any reference to the University of Colorado research, other research linking zinc to loss of smell, the numerous individuals suffering from anosmia after Zicam use, and purported to warn about the harm that ***potential*** product liability lawsuits posed to Matrixx's business without disclosing that lawsuit(s) had ***already*** been filed;

(d) defendants were aware of but failed to disclose that numerous individuals who had used Zicam suffered anosmia; and

(e) defendants were aware of and actively thwarted the dissemination of scientific research conducted at the University of Colorado linking Zicam to anosmia.

40. On January 30, 2004, after the close of ordinary trading, *Dow Jones Newswires* reported that the Food and Drug Administration "is looking into complaints that an over-the-counter common-cold medicine manufactured by a unit of Matrixx Initiatives, Inc. (MTXX) may be causing some users to lose their sense of smell," after such allegations were made in at least three lawsuits.

41. The Company's stock declined some following the *Dow Jones* report, falling from $13.55 per share on January 30, 2004 to $11.97 per share on February 2, 2004. The Company, however, seeking to reverse the decline in its stock price, issued the press release on February 2 that represented that "statements alleging that intranasal Zicam products cause anosmia (loss of smell) are completely unfounded and misleading." The Company further represented that "[i]n no clinical trial of intranasal zinc gluconate gel products has there been a single report of lost or diminished olfactory function (sense of smell)." Such statements were materially false and misleading because, as the Company would later admit, no clinical study has examined the relationship between zinc gluconate gel and anosmia and other research had, in fact, shown such a link. The Company's vigorous, but baseless, denials had their intended effect: the stock price rose, closing at $13.40 per share on February 3, 2004.

HEALTH RISKS OF ZICAM ARE COMMUNICATED TO THE PUBLIC

42. On February 6, 2004, *Good Morning America*, a nationally-broadcast morning news program, reported on the connection between Matrixx's zinc gluconate and anosmia. According to reporter John Ferrugia, "Dr. Bruce Jafek has discovered more than a dozen patients with the same troubles as Linda [who claims that Zicam Gel caused her anosmia], after using the Zicam product." With respect to pending lawsuits, John Ferrugia reported that. "Well, in fact there have been, so far, four lawsuits. Others are being prepared, anywhere from California to Michigan. And so far, Matrixx-Initiatives [sic] has denied that there's any problem, saying that there is no liability. They're saying there's a lot of different reasons you can lose your sense of smell and Zicam isn't one of them."

43. In response to the *Good Morning America* segment disclosing Dr. Jafek's findings linking Zicam to anosmia, the price of Matrixx common stock plummeted, falling from $13.05 per share on February 5, 2004, to close at $9.94 per share on February 6 – a one-day drop of 23.8% on unusually heavy trading volume.

44. On February 6, 2004, Matrixx issued a press release "Reaffirm[ing] Safety of Intranasal Zicam(R) Remedy," reiterating its position that the product is safe and that no clinical trial has shown a connection between its product and anosmia:

> We want to assure our consumers that Zicam Cold Remedy intranasal zinc gluconate products are manufactured and marketed according to Food and Drug Administration guidelines for homeopathic medicine. Our primary concerns are the health and safety of those who use Zicam Cold Remedy nasal gels and the distribution of factual information about our products.
>
> In no clinical trial of intranasal zinc gluconate gel products has there been a single report of lost or diminished olfactory function (sense of smell). Rather, the safety and efficacy of zinc gluconate for the treatment of symptoms related to the common cold have been well established in two double-blind, placebo-controlled, randomized clinical trials. In fact, in neither study were there any reports of anosmia related to the use of this compound. The overall incidence of adverse events associated with zinc gluconate was extremely low, with no statistically significant difference between the adverse event rates for the treated and placebo subsets.

45. However, on February 19, 2004, defendants filed an 8-K with the SEC which stated that the Company had

> convened a two-day meeting of physicians and scientists to review current information on smell disorders. The meeting was held in response to a poster presentation at the American Rhinological Society in September 2003 alleging an association between the use of Zicam and the onset of smell disorders.

46. The February 19, 2004, 8-K further stated that: "In the opinion of the panel, there is insufficient scientific evidence at this time to determine if zinc gluconate, when used as recommended, affects a person's ability to smell."

47. On March 4, 2004, reporter John Ferrugia, who had reported on the matter on the *Good Morning America* segment, reported, on news website *TheDenverChannel.com* (an affiliate of ABC News), that "Zicam Admits No Studies Done on Loss of Smell." According to the article, "[t]he makers of the nationally advertised cold remedy Zicam now admit that they don't know if their nasal gel could cause loss of smell." A related part of the article reported as follows:

> The stunning information came after a 7NEWS investigation found that some consumers who have used Zicam report the loss of smell.
>
> The company that makes Zicam (pictured left), Matrixx Initiatives, first told us its studies showed the product [was] safe, but it will now begin animal and human testing to determine whether its zinc compound could be harmful when sprayed in the nose, causing some to lose their sense of smell.
>
> These studies come after our investigative report aired both on "7NEWS" and ABC's "Good Morning America." Those reports prompted dozens of complaints to the U.S. Food and Drug Administration, which is now investigating.

Doctors at the University of Colorado Taste and Smell Clinic have an increasing number of patients who say they lost their sense of smell after using Zicam intranasal gel, which contains zinc gluconate.

In turn, the company is taking action.

Dr. Bruce Jafek has been documenting the cases from around the country, and there have been several lawsuits in at least five states. All along, Matrixx Initiatives, the maker of Zicam, said the product was safe. But now it admits there are no studies dealing with the issue.

In a filing to the Securities and Exchange Commission on issues affecting stockholders, Matrixx now discloses:

"***There is insufficient evidence at this time to determine if zinc gluconate, when used as recommended, affects a person's ability to smell***."

What's more, after our initial investigation, dozens of consumers have filed complaints with the Food and Drug Administration.

In response, the company formed a medical advisory panel in February.

It says it will now conduct: "... animal and human studies to further characterize these post-marketing complaints." Study findings are expected to be available in 12 months.

"It seems to me that those studies should have been done before they put the product on the market," said Jafek.

He is concerned about consumers who may be at risk right now because Matrixx will leave Zicam nasal gel on the shelf until its studies are completed.

"It would seem that it would either be reasonable to remove the product from the market pending the additional study recommended by the scientific panel or at least put a warning label so people can be aware of this problem," said Jafek. "If you want to use this product to possibly shorten duration or severity of your cold, do so but be aware that it may cause a loss of smell."

Zicam makes many products, including lozenges. These are not at issue – only the nasal spray that contains zinc gluconate. A representative for the company responded to our story and said that Matrixx believes the product is safe and does not cause loss of smell, even though the company admits there are no studies to prove it. Even so, the company says it will not remove the nasal spray from the shelves and has no plans to put a caution label on it.

A company representative says consumers can make their own decision until studies are finished.

48. The Company's annual report, filed with the SEC on Form 10-K on March 19, 2004, stated that numerous suits alleging that its Zicam product(s) caused anosmia had been filed, including one brought in the Superior Court of Maricopa County, Arizona, on behalf of 64 plaintiffs:

Products Liability Matters

Litigation relating to Zicam® Cold Remedy nasal gel arises from claims that the product causes the permanent loss of taste and smell, or anosmia. The Company feels that the clinical studies performed on the product are sufficient evidence to refute such claims.

As of December 31, 2003, suits involving three users of the Zicam® Cold Remedy nasal gel products had been filed in various federal and state courts. All of these suits are at a preliminary stage and the Company has not yet obtained and reviewed complete information regarding the Plaintiffs and their medical conditions, and consequently, the Company is unable to fully evaluate the claims.

On March 12, 2004, the Company was served with a complaint that was filed in the Superior Court of Maricopa County, Arizona, whereby sixty-four Plaintiffs alleged that the use of the Zicam® Cold Remedy nasal gel products resulted in anosmia, the loss of their sense of smell. Specific damages have not been requested and the Company has turned the lawsuit over to its product liability insurance carrier.

The Company is actively engaged in defending these various lawsuits.

49. According to Matrixx's own SEC filings, from late 2003 through October 2004 Matrixx has been sued by approximately 284 individuals in 19 different lawsuits alleging that Zicam caused damage to their sense of smell. Plaintiff has identified the following personal injury lawsuits which are detailed in the following table:

CASE	CASE NO.	DATE FILED	JURISDICTION	NO. OF PLAINTIFFS
Christensen, et al. v. Matrixx Initiatives, Inc., et al.	4:03-cv-0146-HWB	10/14/03	United States District Court, Western District of Michigan (Kalamazoo)	2
Nelson v. Matrixx Initiatives, Inc., et al.	YC048136	12/08/03	Los Angeles Superior Court	1
Sutherland v. Matrixx Initiative, Inc., et al.	CV2003-1635-WHR	12/18/03	Circuit Court of Etowah, Alabama; Removed to Northern District of Alabama (Middle): 4:2004cv00129	1
Bentley, et al. v. Matrixx Initiatives, Inc., et al.	CV2004-001338	01/23/04	Superior Court of Arizona (Maricopa County)	5 (266 consolidated)
Ringbauer, et al. v. Matrixx Initiatives, Inc., et al.	CV2004-002822	02/11/04	Superior Court of Arizona (Maricopa County); Removed to District of Arizona (Pheonix): 04-CV-513	1
Abramsen, et al. v. Matrixx Initiatives, Inc,. et al.	CV2004-04415	03/05/04	Superior Court of Arizona (Maricopa County) Consolidated into Bentley on 09/22/04	64
Powell, et al. v. Matrixx Initiatives, Inc., et al.	CV2004-006062	03/29/04	Superior Court of the State of Arizona (Maricopa County)	3
Kalfian v. Matrixx Initiatives, et al.	04-CV-119	04/07/04	United States District Court for the District of Rhode Island (Providence)	1
Hood v. Matrixx Initiatives, Inc., et al.	CACE04006193	04/14/04	Broward County 17th Judicial Circuit of Florida	2

CASE	CASE NO.	DATE FILED	JURISDICTION	NO. OF PLAINTIFFS
Benkwith v. Matrixx Initiatives, Inc., et al.	CV04-1180 (CNP)	05/03/04	Circuit Court for Montgomery County, Alabama; Removed to Middle District of Alabama (Montgomery): 2:04-cv-00623-MEF-DRB	1
Douillard v. Matrixx Initiatives, Inc., et al.	CV2004-008950	05/06/04	Superior Court of the State of Arizona (Maricopa County); Consolidated into Bentley on 09/22/04	1
Mayo v. Matrixx Initiatives, Inc., et al.	ESX-L-3551-04	05/06/04	Superior Court of New Jersey (Essex County); Removed to District of New Jersey (Newark): 2:04-cv-03197-WJM-RJH	1
Adams, et al. v. Matrixx Initiatives, Inc., et al.	CV2004-008929	05/07/04	Superior Court of the State of Arizona (Maricopa County); Consolidated into Bentley on 09/22/04	89
Lutche v. Matrixx Initiatives, Inc., et al.	CV2004-008704	05/07/04	Superior Court of the State of Arizona (Maricopa County); Consolidated into Bentley on 09/22/04	1
Hunter, et al. v. Matrixx Initiatives, Inc., et al.	CV2004-010830	06/04/04	Superior Court of the State of Arizona (Maricopa County); Consolidated into Bentley on 09/22/04	8
Bryant v. Matrixx Initiatives, Inc., et al.	04CV808	06/14/04	District Court, Boulder County, Colorado; Removed to District of Colorado (Denver); 1:04-cv-02317-MSK-BNB	1
Wyatt v. Matrixx Initiatives, Inc., et al.	2:04-cv-04-1230-UWC	06/15/04	United States District Court, Northern District of Alabama	1
Hilton v. Matrixx Initiatives, Inc., et al.	04 82061620 04	06/27/04	48th Judicial District Court, Tarrant County, Texas; Removed to Northern District of Texas: 4:04-cv-00519	1
Akers, et al. v. Matrixx Initiatives, Inc., et al.	CV2004-016010	08/20/04	Superior Court of the State of Arizona (Maricopa County); Consolidated into Bentley on 09/22/04	97
Hans, et al. v. Matrixx Initiatives, Inc., et al.	3:04-cv-00540-TBR	09/13/04	United States District Court, Western District of Kentucky (Louisville)	4
Rostron v. Matrixx Initiatives, Inc., et al.	4:04-cv-03136-WMA	11/01/04	United States District Court for Northern District of Alabama	2
Swanbeck v. Matrixx Initiatives, Inc., et al.	L003096 04	11/18/04	Superior Court of the State of New Jersey (Morris County)	1
O'Hanlon, et al. v. Matrixx Initiatives, Inc., et al.	2:04cv10391-AHM-JTL	12/21/04	Central District of California; Removed from Los Angeles County Superior Court, Case No. BC3220239	2
Williams, et al. v. Matrixx Initiatives, Inc., et al.	4:04-cv-03548-UWC	12/29/04	United States District Court for Northern District of Alabama	5
Gillespie v. Matrixx Initiatives, Inc., et al.	8:05-cv-00047	01/13/05	Central District of California; Removed from Orange County Superior Court, Case No. 04CC11976.	1
Bourgeios v. Matrixx Initiatives, Inc. et al	4:05-cv-00393-RBP	02/22/05	Northern District of Alabama (Middle)	1

FALSE FINANCIAL REPORTING DURING THE CLASS PERIOD

50. In order to inflate the price of Matrixx's stock, defendants caused the Company to falsely report its results for 3Q of 2003 by failing to disclose, if not reserve for, a potential

liability that had surfaced prior to the Class Period arising from health related concerns questioning the safety of its mainstay cold medication in violation of Generally Accepted Accounting Principals ("GAAP").

51. The 3Q 2003 results were included in the 10-Q filed with the SEC on November 12, 2003. The results for quarter ending September 30, 2003 were also included in a press release issued at the start of the Class Period on October 22, 2003. These SEC filings represented that the financial information was a fair statement of the Company's financial results and that the results were prepared in accordance with GAAP.

52. These representations were false and misleading as to the financial information reported, as such financial information was not prepared in conformity with GAAP, nor was the financial information "a fair presentation" of the Company's operations due to the Company's improper accounting for its reserves, causing the financial results to be presented in violation of GAAP and SEC rules.

53. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. SEC Regulation S-X (17 C.F.R. §210.4-01(a)(1)) states that financial statements filed with the SEC, which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate, despite footnote or other disclosure. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosure which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. §210.10-01(a).

54. GAAP, as set forth in Financial Accounting Standards Board ("FASB") Statement of Financial Accounting Standards ("SFAS") No. 5, Accounting for Contingencies, requires that a loss be accrued whenever it is probable a loss has been incurred or an asset impaired and the amount of the loss can be reasonably estimated. If the loss is at least reasonably possible but no reasonable estimate can be made, the contingency at a minimum should be disclosed. According to SFAS No. 5:

> An estimated loss from a loss contingency . . . shall be accrued by a charge to income if both of the following conditions are met:
>
> a. Information available prior to issuance of the financial statements indicates that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements. It is implicit in this condition that it must be probable that one or more future events will occur confirming the fact of the loss.
>
> b. The amount of loss can be reasonably estimated.
>
> * * *
>
> If no accrual is made for a loss contingency because one or both of the conditions in paragraph 8 are met, or if an exposure to loss exists in excess of the amount accrued pursuant to the provisions of paragraph 8, disclosure of the contingency shall be made when there is at least a reasonable possibility that a loss or an additional loss may have been incurred.[3] The disclosure shall indicate the nature of the contingency and shall give an estimate of the possible loss or range of loss or state that such an estimate cannot be made.
>
> * * *
>
> Obligations other than warranties may arise with respect to products or services that have been sold, for example, claims resulting from injury or damage caused by product defects. If it is probable that claims will arise with respect to products or services that have been sold, accrual for losses may be appropriate. ***The condition in paragraph 8(a) would be met, for instance, with respect to a drug product or toys that have been sold if a health or safety hazard related to these products is discovered and as a result it is considered probable that liabilities have been incurred. The condition in paragraph 8(b) would be met if experience or other information enables the enterprise to make a reasonable estimate of the loss with respect to the drug product or the toys***.

SFAS No. 5 ¶¶8, 10 & 26.

55. Here, at a minimum, by 3Q of 2003, Matrixx should have disclosed, if not provided a reserve for, a potential contingency that had arisen related to safety issues concerning its products. During the Class Period, Matrixx did not disclose that several lawsuits had been filed against the Company, including one prior to the start of the Class

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[3] For example, disclosure shall be made of any loss contingency that meets the condition in ¶8(a) – but that is not accrued because the amount of loss cannot be reasonably estimated (¶8(b)). Disclosure is also required of some loss contingencies that do not meet the condition in ¶8(a) – namely, those contingencies for which there is a reasonable possibility that a loss may have incurred even though information may not indicate that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements.

Period, alleging that the Company's zinc gluconate-based products had caused plaintiffs to suffer from anosmia and that anecdotal evidence had surfaced questioning the safety of the Company's mainstay cold medication. The failure to disclose these known contingencies violated GAAP.

56. Due to these accounting improprieties, the Company presented its financial results and statements in a manner which violated GAAP, including violation of the following fundamental accounting principles:

(a) the principle that interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements. (APB No. 28, ¶10);

(b) the principle that financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit and similar decisions. (FASB Statement of Concepts No. 1, ¶34);

(c) the principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events and circumstances that change resources and claims to those resources. (FASB Statement of Concepts No. 1, ¶40);

(d) the principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general. (FASB Statement of Concepts No. 1, ¶50);

(e) the principle that financial reporting should provide information about an enterprise's financial performance during a period. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise

performance, those expectations are commonly based at least partly on evaluations of past enterprise performance. (FASB Statement of Concepts No. 1, ¶42);

(f) the principle that financial reporting should be reliable in that it represents what it purports to represent. That information should be reliable as well as relevant, is a notion that is central to accounting. (FASB Statement of Concepts No. 2, ¶¶58-59);

(g) the principle of completeness, which means that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions. (FASB Statement of Concepts No. 2, ¶79); and

(h) the principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered. The best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent. (FASB Statement of Concepts No. 2, ¶¶95, 97).

57. Further, the undisclosed adverse information concealed by defendants during the Class Period is the type of information which, because of SEC regulations, regulations of the national stock exchanges and customary business practice, is expected by investors and securities analysts to be disclosed and is known by corporate officials and their legal and financial advisors to be the type of information which is expected to be and must be disclosed.

UNDISCLOSED ADVERSE INFORMATION

58. The market for Matrixx securities was open, well-developed and efficient at all relevant times. As a result of defendants' materially false and misleading statements and failures to disclose adverse information regarding Zicam, Matrixx securities traded at artificially inflated prices during the Class Period. The artificial inflation continued until at least February 6, 2004. Plaintiff and other members of the class purchased or otherwise acquired Matrixx securities relying upon the integrity of the market price of the Company's securities and market information relating to Matrixx and have been damaged thereby.

59. During the Class Period, defendants materially misled the investing public, thereby inflating the price of Matrixx common stock, by publicly issuing false and misleading statements and omitting to disclose material adverse facts regarding Zicam, necessary to make defendants' statements, as set forth herein not false and misleading. Said statements and omissions were materially false and misleading in that they failed to disclose material adverse information regarding Zicam and misrepresented the truth about the Company, its business and operations, as detailed herein.

60. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by plaintiff and other members of the class. As described herein, during the Class Period, defendants made or caused to be made a series of materially false or misleading statements about Matrixx's earnings. These material misstatements and omissions created in the market an unrealistically positive assessment of Matrixx and its prospects as operations, thus causing the Company's common stock to be overvalued and artificially inflated at all relevant times. Defendants' materially false and misleading statements during the Class Period resulted in plaintiff and other members of the class purchasing the Company's common stock at artificially inflated prices, thus leading to their losses when the illusion was revealed and the market was able to accurately value the Company.

APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD-ON-THE-MARKET DOCTRINE

61. At all relevant times, the market for Matrixx's securities was an efficient market for the following reasons, among others:

(a) Matrixx's stock met the requirements for listing and was listed and actively traded on the NASDAQ National Market, a highly efficient and automated market;

(b) as a regulated issuer, Matrixx filed periodic public reports with the SEC and the NASDAQ National Market;

(c) Matrixx regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

(d) Matrixx was followed by several securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports were publicly available and entered the public marketplace.

62. As a result of the foregoing, the market for Matrixx's securities promptly digested current information regarding Matrixx from all publicly available sources and reflected such information in Matrixx's stock price. Under these circumstances, all purchasers of Matrixx's securities during the Class Period suffered similar injury through their purchase of Matrixx's securities at artificially inflated prices and a presumption of reliance applies.

ADDITIONAL SCIENTER ALLEGATIONS

63. As alleged herein, defendants acted with scienter in that defendants knew that the public statements or documents issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, defendants, by virtue of their receipt of information reflecting the true facts regarding Matrixx, their control over, and/or receipt and/or modification of the Company's alleged materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Matrixx, participated in the fraudulent scheme alleged herein.

64. Defendants were aware since at least September of 2003, that numerous users of their Zicam product had experienced a rare condition known as anosmia or loss of smell. Findings of post treatment anosmia were reported by Dr. Bruce Jafek, Miriam R. Linschoten and Bruce W. Morrow of the University of Colorado School of Medicine, Department of Otolaryngology at a medical conference in September of 2003. At the time, Dr. Jafek had reported 10 cases of anosmia after Zicam use. As of April of 2004, Dr. Jafek had evaluated over 100 such cases. On September 12, 2003, over one month before the start of the Class Period, Matrixx informed Dr. Jafek that "as a legal matter" he did "not have their permission to use their company name or product trademarks" in the poster reporting Dr. Jafek's research. In order to avoid threatened legal action from the Company, Dr. Jafek deleted any reference to Zicam or Matrixx from the poster which he used to present his research at a medical conference. Dr. Jafek's findings that "[z]inc ions are toxic to olfactory epithelium" and that "[r]eports of severe hyposmia with parosmia or anosmia appear to be related to the intranasal use of zinc gluconate [Zicam Cold Remedy]" were later published in the May/June 2004 issue of the *American Journal of Rhinology*.

PLAINTIFF'S CLASS ACTION ALLEGATIONS

65. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all those who purchased the securities of Matrixx between October 22, 2003 and February 6, 2004, inclusive, and who were damaged thereby. Excluded from the class are defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

66. The members of the class are so numerous that joinder of all members is impracticable. During the Class Period, Matrixx had approximately 9.4 million shares of common stock outstanding, which were actively traded on the NASDAQ National Market. While the exact number of class members is unknown to plaintiff at this time and can only be ascertained through appropriate discovery, plaintiff believes that there are hundreds or

thousands of members in the proposed class. Record owners and other members of the class may be identified from records maintained by Matrixx or its transfer agent and may be notified of this action by mail, using a form of notice similar to that customarily used in securities class actions.

67. Plaintiff's claims are typical of the claims of the members of the class as all members of the class are similarly affected by defendants' wrongful conduct in violations of federal law that is complained of herein.

68. Plaintiff will fairly and adequately protect the interests of the members of the class and has retained counsel competent and experienced in class and securities litigation.

69. Common questions of law and fact exist as to all members of the class and predominate over any questions solely affecting individual members of the class. Among the questions of law and fact common to the class are:

(a) whether the federal securities laws were violated by defendants' acts as alleged herein;

(b) whether statements made by defendants to the investing public during the Class Period misrepresented material facts about the business and operations of Matrixx; and

(c) to what extent the members of the class have sustained damages and the proper measure of damages.

70. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

FIRST CLAIM
Violation of §10(b) of the Exchange Act and Rule 10b-5
Promulgated Thereunder Against All Defendants

71. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

72. During the Class Period, Matrixx and the Individual Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including plaintiff and other class members, as alleged herein; (ii) artificially inflate and maintain the market price of Matrixx's securities; and (iii) cause plaintiff and other members of the class to purchase Matrixx's securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, defendants took the actions set forth herein.

73. Defendants: (i) employed devices, schemes, and artifices to defraud; (ii) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Matrixx's securities in violation of the Exchange Act and Rule 10b-5. All defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

74. Matrixx and the Individual Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of Matrixx as specified herein.

75. These defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct alleged herein in an effort to assure investors of Matrixx's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state

material facts necessary in order to make the statements made by Matrixx and its business operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of Matrixx's securities during the Class Period.

76. The Individual Defendants' primary liability and controlling person liability, arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors of the Company during the Class Period; (ii) the Individual Defendants were privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; and (iii) the Individual Defendants were aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

77. Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Matrixx's operating condition and future business prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by defendants' overstatements and misstatements of the Company's business, operations and earnings throughout the Class Period, defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

78. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Matrixx's securities were artificially inflated during the Class Period. In ignorance of the fact that market prices of Matrixx's publicly traded securities were artificially inflated and relying directly or indirectly on the false and misleading statements made by defendants, or

upon the integrity of the market in which the securities trade, and/or on the absence of material adverse information that was known to or recklessly disregarded by defendants but not disclosed in public statements by defendants during the Class Period, plaintiff and the other members of the class acquired Matrixx securities during the Class Period at artificially high prices and were damaged thereby.

79. At the time of said misrepresentations and omissions, plaintiff and other members of the class were ignorant of their falsity. Had plaintiff and the other members of the class and the marketplace known of the true financial condition and business prospects of Matrixx, which were not disclosed by defendants, plaintiff and the other members of the class would not have purchased or otherwise acquired their Matrixx securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

80. By virtue of the foregoing, defendants have violated §10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

81. As a direct and proximate result of defendants' wrongful conduct, plaintiff and the other members of the class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

SECOND CLAIM
Violation of §20(a) of the Exchange Act Against Defendants Johnson and Hemelt

82. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

83. Defendants Johnson and Hemelt acted as controlling person(s) of Matrixx within the meaning of §20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions and their ownership and contractual rights, participation in, and/or awareness of the Company's operations and/or intimate knowledge of the statements filed by the Company with the SEC and disseminated to the investing public, Johnson and Hemelt had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various

statements which plaintiff contends are false and misleading. Defendants Johnson and Hemelt were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

84. In particular, defendants Johnson and Hemelt had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein and exercised the same.

85. As set forth above, Matrixx and the Individual Defendants each violated §10(b) and Rule 10b-5 by their acts and omissions as alleged in the Complaint. By virtue of their position as a controlling person, defendants Johnson and Hemelt are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of Matrixx's and the Individual Defendants' wrongful conduct, plaintiff and other members of the class suffered damages in connection with their purchases of the Company's securities during the Class Period.

WHEREAS, plaintiff prays for relief and judgment, as follows:

A. Determining that this action is a proper class action, designating plaintiff as lead plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and plaintiff's counsel as lead counsel;

B. Awarding compensatory damages in favor of plaintiff and the other class members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding plaintiff and the class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

D. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

DATED: March 4, 2005

BONNETT, FAIRBOURN, FRIEDMAN & BALINT, P.C.
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FRANCIS J. BALINT, JR.

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Attorneys for Plaintiff

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 401 B Street, Suite 1600, San Diego, California 92101.

2. That on March 4, 2005, declarant served the CONSOLIDATED AMENDED COMPLAINT FOR VIOLATION OF THE FEDERAL SECURITIES LAWS by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th day of March, 2005, at San Diego, California.