

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

CELLECTIS S.A.,

Plaintiff,

v.

PRECISION BIOSCIENCES, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Collectis S.A. (“Collectis”) hereby alleges for its Complaint against Defendant Precision Biosciences, Inc. (“Precision”), on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

THE PARTIES

1. Plaintiff Collectis is a corporation organized under the laws of France, and maintains its principal place of business at 102 Route de Noisy, 93235 Romainville Cedex, Paris, France.
2. Defendant Precision is a corporation organized under the laws of Delaware, and maintains a principal place of business at 302 East Pettigrew Street, Dibrell Building, Suite A-100, Durham, NC 27701.

NATURE OF THE ACTION

3. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1, et seq., and seeking damages, along with preliminary and permanent injunctive relief under 35 U.S.C. §§ 281-285.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has general and specific personal jurisdiction over Precision because: (a) it is incorporated in the State of Delaware and knowingly transacts business in this judicial district; and (b) it has been and is committing acts of infringement of Collectis' U.S. Patent No. 7,842,489 in Delaware.

6. Venue is proper in this Court, pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b).

BACKGROUND

Collectis's Patent-in-Suit

7. U.S. Patent No. 7,842,489 ("the '489 patent") was duly and legally issued by the United States Patent and Trademark Office ("the PTO") on November 30, 2010. The '489 patent is assigned to Collectis. The '489 patent is entitled "Use Of Meganucleases For Inducing Homologous Recombination *Ex Vivo* and *In Toto* In Vertebrate Somatic Tissues and Application Thereof." The '489 patent is directed to single-chain homing endonucleases, also referred to as "single-chain meganucleases." A true and accurate copy of the '489 patent is attached as Exhibit A.

8. Meganucleases are natural proteins found in many single-celled organisms. They are highly specific “DNA scissors” that are able to recognize their specific binding site (of, *e.g.*, from 12 to over 30 base pairs in a genome) within the organism in which they reside and cleave (or break) the DNA at or near that site.

9. Collectis was founded in 1999 and is a pioneering company in the field of genome engineering, particularly with regard to the use of meganucleases as innovative tools to enable targeted modifications to DNA. Collectis’s scientists have worked with natural meganucleases and developed techniques to design and make engineered meganucleases. For example, Collectis designs and markets engineered single-chain meganucleases that are “tailor-made” to cleave a specific site in a given genome of an organism, thereby enabling modification of the targeted genome at that specific cleavage site. Collectis’s ground-breaking, engineered single-chain meganucleases are useful in numerous fields, such as therapeutics (*e.g.*, gene therapy and antiviral therapy), agricultural biotechnology (*e.g.*, addition or removal of a trait; or protein production) and for use in generation of transgenic organisms.

10. The claims of the ’489 patent define such engineered or tailor-made I-CreI single-chain meganucleases, which can be used for genome engineering. “I-CreI” meganucleases are one member of the family of Group I intron-encoded homing endonucleases, which family was classified by scientists years ago when such homing endonucleases were first identified in nature. For example, claim 1 of the ’489 patent recites:

1. A single chain homing endonuclease, comprising a first variant of I-CreI having the amino acid sequence of SEQ ID NO:23 and a second variant of I-CreI having the amino acid sequence of SEQ ID NO:23 in a single polypeptide, wherein said first variant of I-CreI contains the following substitutions: one to six substitutions in the sequence of amino acid residues 26 to 40 and two to three substitutions in the sequence of amino acid residues 44 to 77, wherein in said first variant of I-CreI there is a substitution at positions 33, 68 and 77, and independently, said second variant of I-CreI contains the following substitutions:

four to six substitutions in the sequence of amino acid residues 26 to 40 and two to three substitutions in the sequence of amino acid residues 44 to 77, wherein in said second variant of I-CreI there is a substitution at positions 26, 30, 32, 38, 44, and 68, wherein the endonuclease binds and cleaves DNA.

Precision's Infringing Activities

11. On information and belief, Precision has been and is using what it calls the Directed Nuclease Editor (DNE) and/or other methods to make certain engineered single-chain meganucleases, which can be used in methods of preparing transgenic organisms, including plants. Precision's engineered single-chain meganucleases target site-specific regions of DNA, cleave the DNA at the targeted site, and thereby effect a desired change in the genome at that cleavage site.

12. For example, on information and belief, Precision has been and is making engineered I-CreI single-chain meganucleases having the substitutions recited above in claim 1 of the '489 patent. Precision has been and is designing, making and selling its engineered I-CreI single-chain meganucleases to third parties in the agricultural business who, in active concert with Precision, are using them to cleave specific sites in the DNA of targeted organisms (such as a maize cell), thereby altering the genome of the targeted organism at that specific site. Using these infringing engineered I-CreI single-chain meganucleases, Precision and such third parties have been and are creating, for example, transgenic plants (such as maize) having desirably changed properties.

13. As a direct and proximate consequence of these infringing activities by Precision, Collectis has been irreparably harmed and injured in its business and property rights, which harm and injury will continue unless the infringement is enjoined by this Court, and Collectis has suffered and will continue to suffer such harm and injury for which it is entitled to relief.

**COUNT I
PATENT INFRINGEMENT OF THE '489 PATENT**

14. The allegations of paragraphs 1 to 13 are incorporated by reference as if fully set forth herein.

15. Through its above activities, Precision has been and is directly infringing one or more claims of the '489 patent and/or inducing or contributing to the direct infringement of those claims by third parties, all literally and/or under the doctrine of equivalents.

16. Precision's infringement of the '489 patent has been, and continues to be, willful, deliberate and objectively reckless.

17. Precision's willful conduct provides a basis for this Court to award enhanced damages pursuant to 35 U.S.C. § 284 and makes this an exceptional case within the meaning of 35 U.S.C. § 285.

PRAYER FOR RELIEF

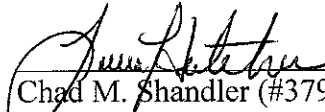
WHEREFORE, Plaintiff Collectis hereby prays for the entry of a judgment from this Court:

- a. that Precision is directly infringing one or more claims of the '489 patent, and/or inducing or contributing to the direct infringement by third parties of those claims;
- b. that Precision's infringement is willful and that this is an exceptional case under 35 U.S.C. § 285;
- c. that the '489 patent is valid and enforceable;
- d. prior to trial, preliminarily enjoining Precision, its officers, directors, agents, servants and employees, and all persons in active concert or participation with them, from infringing the '489 patent;
- e. after trial, permanently enjoining Precision, its respective officers, agents, servants and employees, and those persons in active concert or participation with any of them, from infringing the '489 patent;

- e. awarding Collectis damages in accord with 35 U.S.C. § 284 for said infringement, plus interest and costs, and trebling such damages in light of Precision's willful, deliberate and objectively reckless infringing conduct;
- f. awarding Collectis its attorney's fees, costs and expenses; and
- g. awarding Collectis such other and further relief as this Court may deem to be just and proper.

JURY DEMAND

Plaintiff Collectis respectfully demands a jury trial pursuant to Rule 38(b) of the Federal Rules of Civil Procedure on all issues so triable.


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Dated: November 30, 2010