

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 271.

5. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b).

COUNT FOR PATENT INFRINGEMENT

7. On July 4, 2006, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,070,775 (the “775 Patent”) entitled “Recombinant A2-Specific TNF α Specific Antibodies” to Centocor and NYU as co-assignees. NYU has granted Centocor an exclusive license to the 775 patent. A true and correct copy of the 775 Patent is attached as Exhibit A to this Complaint.

8. The 775 Patent claims antibodies AND antibody fragments that bind Tumor Necrosis Factor- α (“TNF- α ”). The claimed antibodies and antibody fragments are useful in the therapy of a number of TNF- α -mediated pathologies and conditions, such as rheumatoid arthritis.

9. Defendant Abbott makes, uses, offers for sale, and/or sells in, and/or imports into, the United States, including within this judicial DISTRICT, Humira®, a monoclonal antibody that binds TNF- α . Humira® has been approved by the FDA and is prescribed by doctors for the treatment, *inter alia*, of rheumatoid arthritis.

10. Abbott is infringing, inducing infringement, AND/or contributing to the infringement of, the 775 patent by virtue of its manufacture, use, offer for sale, and/or sale in, and/or its importation into, the United States of its Humira® product.

11. Abbott was given notice of its infringement of the 775 patent. Despite that notice, Abbott continues to infringe, induce infringement of, and/or contribute to the infringement of the 775 patent.

12. On information and belief, Abbott's acts of INFRINGEMENT as set out in the previous paragraph have been deliberate and willful, and in reckless disregard of the patent rights of Centocor and NYU.

13. Centocor and NYU have been, and continue to be, DAMAGED by the infringing activities of Abbott.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Centocor and NYU demand trial by jury in this action of all issues triable by jury in this matter.

PRAYER FOR RELIEF

WHEREFORE, Centocor and NYU respectfully demand the following relief:

- (a) entry of a final judgment that Abbott has been infringing the 775 Patent;
- (b) an award of damages sufficient to compensate CENTOCOR and NYU for infringement of the 775 Patent by Abbott, together with prejudgment and post-judgment interest and costs as fixed by the Court as provided by 35 U.S.C. § 284;
- (c) entry of an order compelling Abbott to compensate Centocor and NYU for any ongoing and/or future infringement of the 775 Patent, in an amount and under terms appropriate for the circumstances;
- (d) entry of an order finding that Abbott's INFRINGEMENT has been willful, and a trebling of the damages award pursuant to 35 U.S.C. § 284;

(e) a judgment holding this case to BE exceptional, and an award to Centocor and NYU of its attorneys' fees, costs, and expenses in this action pursuant to 35 U.S.C. § 285; and

(f) such other relief as the Court may deem just and proper.

Dated: April __, 2007

**CENTOCOR, INC. and
NEW YORK UNIVERSITY**

By its attorneys,

/s/ Richard A. Sayles

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