

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

IPXPHARMA, LLC,

Plaintiffs,

vs.

MILLENNIUM PHARMACEUTICALS,
INC.

Defendant.

C. A. NO. 1:15-cv-00276 (LPS)

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW, Plaintiff, IPXpharma, LLC (“IPXpharma”), pursuant to Federal Rule of Civil Procedure 15(a)(1), and files its First Amended Complaint for Patent Infringement against Defendant Millennium Pharmaceuticals, Inc. (“Millennium”) alleging as follows:

PARTIES

1. Plaintiff, IPXpharma, LLC, is a Texas limited liability company having its principal place of business at 102 Woodmont Boulevard, Suite 600, Nashville, TN 37205.

2. On information and belief, Defendant Millennium is a Delaware corporation having its principal place of business at 40 Landsdowne Street, Cambridge, Massachusetts 02139.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 2202.

5. On information and belief, Millennium is subject to personal jurisdiction in the District of Delaware (the “District”), consistent with the principles of due process and the Delaware Long Arm Statute, because Millennium is a Delaware corporation, offers its products for sale in this District, has transacted business in this District, has previously committed acts of patent infringement and/or continues to commit acts of patent infringement in this District, and/or has placed infringing products into the stream of commerce through established distribution channels with the expectation that such products will be purchased by residents of this District.

6. In a patent case, venue is proper “in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.” 28 U.S.C. § 1400(b). “[A] defendant

that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced.” 28 U.S.C. § 1391(c)(2). Thus, venue is proper in the District because, as set forth above, Millennium, a corporate defendant, is subject to personal jurisdiction in the District.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,171,786

7. IPXpharma is the owner of all right, title, and interest, including the right to sue for any past, present, and/or future damages, in U.S. Patent No. 6,171,786 (the “786 patent”), entitled “Methods for Preventing Multidrug Resistance in Cancer Cells,” duly and properly issued by the U.S. Patent and Trademark Office on January 9, 2001. A copy of the ‘786 patent is attached as Exhibit A.

8. IPXpharma previously filed a complaint for patent infringement against Millennium relating to the ‘786 patent in the United States District Court for the Middle District of Tennessee. The Court dismissed the Complaint for lack of standing because the original assignment from the University of Illinois Chicago (“UIC”) to the inventors (attached hereto as Exhibit B) did not assign the right to sue for past damages. *See generally IPXpharma, LLC v. Millennium Pharm., Inc.*, No. 3:14-CV-1545, 2014 WL 6977662, at *1 (M.D. Tenn. Dec. 9, 2014). As a

result, the inventors' assignment to IPXpharma (attached hereto as Exhibit C) also did not convey the right to sue for past damages.

9. Subsequently, UIC assigned to the inventors (attached hereto as Exhibit D) the right to sue for past damages, and the inventors likewise assigned to IPXpharma (attached hereto as Exhibit E) the right to sue for past damages. Thus, IPXpharma has standing to bring this claim against Millennium.

10. On information and belief, Millennium has previously infringed and/or is infringing the '786 patent, pursuant to 35 U.S.C. § 271(a), and/or (g), either literally or under the doctrine of equivalents, by among other things making, using, offering to sell, and/or selling in the United States, and/or importing into the United States, without authority, products or processes that are covered by at least claims 14, 22 and 25 of the '786 patent including, by way of example and not limitation, Velcade.

11. IPXpharma has been and continues to be damaged by Millennium's infringement of the '786 patent in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, IPXpharma prays for relief as follows:

- A. For a judgment declaring that Millennium has infringed the '786 patent;

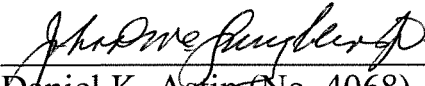
- B. For a judgment awarding IPXpharma compensatory damages as a result of Millennium's infringement of the '786 patent, together with interest and costs, and in no event less than a reasonable royalty;
- C. For a judgment awarding IPXpharma pre-judgment interest;
- D. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, IPXpharma respectfully requests a trial by jury of all issues properly triable by jury.

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Dated: 23 April 2015



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