

PUBLIC VERSION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT DIVISION**

ONCOIMMUNE, INC.)	
)	
a Delaware corporation,)	Judge Paula Xinis
)	
Plaintiff,)	C.A. No. 8:17-cv-02730-PX
)	
v.)	Jury Trial Demanded
)	
OHIO STATE INNOVATION)	
FOUNDATION, INC.,)	
)	
an Ohio not-for-profit corporation,)	
)	
Defendant.)	

**AMENDED COMPLAINT FOR DECLARATORY JUDGMENT, BREACH OF
CONTRACT, TORTIOUS INTERFERENCE, INJUNCTIVE RELIEF, AND DAMAGES**

Plaintiff OncoImmune, Inc. (“OncoImmune”), by and through its counsel and for its Amended Complaint against Defendant Ohio State Innovation Foundation, Inc. (“OSIF”), alleges as follows:

NATURE OF THIS ACTION

1. OncoImmune brings this action to obtain declaratory relief, injunctive relief, and damages against OSIF as follows:

2. First, declaring that the License Agreement described herein between OncoImmune and OSIF, in its current form – *i.e.*, as amended over the period of the relationship between OncoImmune and OSIF (as well as OSIF’s predecessor in interest) – is valid and enforceable;

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3. Second, declaring that OncoImmune's sublicensing of certain monoclonal antibodies and animal models for identifying such antibodies, including a certain L3D10 hybridoma cell line, a certain CTLA-4 knock-in mouse, and certain anti-CTLA4 monoclonal antibodies produced therefrom (collectively, the "MAB Technology") to third parties BioLegend, Inc. ("BioLegend") and a certain pharmaceutical company ("Party X") is not a breach of the License Agreement;

4. Third, finding OSIF liable for its intentional and malicious tortious interference with OncoImmune's business relations with Party X and BioLegend, which is calculated to damage and has damaged OncoImmune's legitimate business interests;

5. Fourth, finding OSIF liable for its flagrant and intentional breach of the License Agreement based upon, *inter alia*, its efforts to undermine OncoImmune's sublicenses to Party X and BioLegend and otherwise its attempts to revoke the rights conveyed to OncoImmune by the License Agreement;

6. Fifth, declaring that the MAB Technology is comprehended by the inventions licensed to OncoImmune under the License Agreement, such that OncoImmune's use, manufacture, sale, and sub-licensing to others (as permitted by the License Agreement) is permitted and does not constitute an infringement of any patent rights OSIF may have in the MAB Technology;

7. Sixth, enjoining OSIF from interfering with OncoImmune's contractual relationships with third parties, enjoining OSIF from interfering with OncoImmune's existing and prospective business relationships with third parties, and enjoining OSIF from interfering

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with OncoImmune's efforts to sublicense any and all biological materials relating to the MAB technology; and

8. Seventh, awarding OncoImmune damages for the economic loss proximately resulting from the activities of OSIF and punitive damages based upon OSIF's malicious conduct as complained of herein.

9. This action arises under 28 U.S.C. §§ 1331 and 1338, the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the United States Patent Laws, 35 U.S.C. §§ 1, *et seq.*

THE PARTIES

10. Plaintiff OncoImmune is a closely held corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 12111 Parklawn Dr., Suite 107, Rockville, Maryland 20852. OncoImmune has maintained its principal place of business in Maryland since 2013.

11. OSIF is a not-for-profit corporation organized under the laws of the State of Ohio and having an address at 1524 North High Street, Columbus, Ohio 43201. On information and belief, OSIF was formed in 2013 to hold, manage and facilitate commercialization of intellectual property of The Ohio State University ("OSU"). For all purposes relevant to this Amended Complaint, OSIF is the successor in interest to The Ohio State University Research Foundation ("OSURF") and is operated, supervised and controlled by OSU.

12. As set forth herein, OSIF and OncoImmune have a long-standing business relationship. In 2015, OSIF reached into Maryland to negotiate and acquire an ownership interest in OncoImmune in exchange for the waiver of certain debts and future royalties. OSIF remains a shareholder in OncoImmune, while perpetrating the conduct complained of herein.

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JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction in this case under 28 U.S.C. §§ 1331 and 1338, because this is a civil action arising under the patent laws of the United States. This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because OncoImmune and OSIF are citizens of different States and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

14. There is an actual and justiciable controversy between OncoImmune and OSIF in that OSIF has asserted, both in correspondence and through claims of misappropriation in state court litigation, that the License Agreement between the parties in its current form is invalid and OncoImmune has no right to sublicense the MAB Technology despite the licensed “PATENT RIGHTS” as defined in the License Agreement.

15. A judicial declaration confirming (i) that the License Agreement in its current form – *i.e.*, as amended over the period of the relationship between OncoImmune and OSIF (as well as its predecessor in interest) – is valid and enforceable; (ii) that OncoImmune’s sublicensing of the MAB Technology to third parties BioLegend and Party X does not breach the License Agreement; and, (iii) that the MAB Technology is comprehended by the inventions licensed to OncoImmune under its License Agreement with OSIF, such that OncoImmune’s use, manufacture, sale, and sublicensing to others is permitted and does not constitute an infringement of any patent rights OSIF may have in the MAB Technology, is necessary and appropriate to resolve this controversy. Therefore, pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, OncoImmune is entitled to a judgment from this Court respecting the foregoing issues.

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16. OSIF is subject to personal jurisdiction in this judicial district, including, without limitation, by reason of (i) its contractual relationship with and ownership interest in OncoImmune, for which it reached into Maryland; (ii) OSIF's deliberate, long-standing, and profitable business activities within this district related to OncoImmune and the claims set forth herein; (iii) OSIF's intentional and malicious unlawful conduct directed at this district, which is calculated to frustrate OncoImmune's business activities and has caused significant harm experienced by OncoImmune in this district; (iv) OncoImmune's rights to the MAB Technology in this district; (v) Maryland's interest in adjudicating this dispute; and, (vi) OncoImmune's interest in obtaining convenient and effective relief.

17. OSIF is also subject to personal jurisdiction pursuant to Maryland's long-arm statute, which authorizes jurisdiction over a party who:

[t]ransacts any business or performs any character of work or service in the State; [or]

[c]auses tortious injury in the State or outside of the State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from goods, food, services, or manufactured products used or consumed in the State[.]

Md. Code Ann., Cts. & Jud. Proceedings § 6-103(b)(1) and (4) (West 2017).

18. Venue properly lies in this judicial district under 28 U.S.C. § 1391(b)(1) and (2) because OSIF is subject to the personal jurisdiction of this Court and, thus, qualifies as a resident of this judicial district under 28 U.S.C. § 1391(c)(2). In addition, a substantial portion of the events giving rise to OncoImmune's claims has occurred and will continue to occur in this district.

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BACKGROUND FACTUAL ALLEGATIONS

19. In 2004, OncoImmune entered into the License Agreement with OSURF. A true copy of the License Agreement is attached as Exhibit A.

20. The License Agreement conveyed to OncoImmune a “worldwide exclusive license in the FIELD OF USE under PATENT RIGHTS...to make, have made, use, lease, sell, distribute, and import LICENSED PRODUCTS and to practice the LICENSED PROCESSES.” See Exhibit A, Article 2.1; *see also id* at Articles 1.2, 1.3, 1.4 and 1.7 (*emphasis original*).

21. The FIELD OF USE is defined as comprehending “vaccines, therapeutics, diagnostics and prevention.” *Id.* at Article 1.2. The LICENSED PRODUCTS are defined as comprehending, *inter alia*, “any product or product part which...is covered in whole or in part by an issued, unexpired claim or a pending claim contained in the PATENT RIGHTS....or...is manufactured by using a process or is employed to practice a process which is covered in whole or in part by any issued, unexpired claim or a pending claim contained in the PATENT RIGHTS....” *Id.* at Article 1.4. The LICENSED PROCESSES, similarly, are defined as comprehending “any process that is covered in whole or in part by an issued, unexpired claim or a pending claim contained in the PATENT RIGHTS.” *Id.* at Article 1.3.

22. The PATENT RIGHTS of the License Agreement are defined as including the OSURF intellectual property listed in Appendix A of the License Agreement. *See id.*

23. The License Agreement includes the right to sublicense. *See id.* at Article 4.

24. In 2009, OncoImmune and OSURF entered into a “First Amendment to License Agreement” (“First Amendment”), which amends the terms of the License Agreement. A true copy of the First Amendment is attached as Exhibit B. *Inter alia*, the First Amendment expanded

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the PATENT RIGHTS by listing 21 patents and applications, for various countries. *See* Exhibit B, Schedule A.

25. Also in 2009, OncoImmune and OSURF entered into a “Second Amendment to License Agreement” (“Second Amendment”), which further amends the terms of the License Agreement. A true copy of the Second Amendment is attached as Exhibit C.

26. On April 16, 2010, OncoImmune entered into a Non-Exclusive License Agreement with third party BioLegend, pursuant to which OncoImmune sublicensed to BioLegend the non-exclusive worldwide right in and to the L3D10/CTLA-4 antibody (“BioLegend License”). A true copy of the BioLegend License is attached as Exhibit D. The L3D10/CTLA-4 antibody is comprehended by the PATENT RIGHTS.

27. The BioLegend License and OncoImmune’s long-standing business relationship with BioLegend has been profitable. OSIF knew of the BioLegend License, but never asserted an interest in or attempted to undermine the BioLegend License until after OncoImmune relocated to Maryland, OSIF acquired an equity stake in OncoImmune, and the conduct complained of herein ensued.

28. In May of 2010, OncoImmune and OSURF entered into a “Third Amendment to License Agreement” (“Third Amendment”), which further amends the License Agreement. A true copy of the Third Amendment is attached as Exhibit E. *Inter alia*, the Third Amendment updates the PATENT RIGHTS by listing the status of the 21 patents and applications identified in the First Amendment. *See* Exhibit E, Schedule A.

29. Subsequent to the execution date of the Third Amendment, OSURF assigned its rights under the License Agreement, as amended, to Defendant OSIF.

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30. In 2013, OncoImmune moved its principal place of business to its present location in Maryland. Since that time and presently, OncoImmune holds rights to the MAB Technology in Maryland.

31. In April of 2015, OSIF reached into Maryland to negotiate and enter into “Amendment No. 4 to License Agreement” (“Fourth Amendment”) with OncoImmune. A true copy of the Fourth Amendment is attached as Exhibit F. *Inter alia*, the Fourth Amendment deleted the original terms of Article 3 (“License Fees and Royalties”) from the License Agreement and replaced them with an Article 3 giving OSIF an equity stake in OncoImmune. *See* Exhibit F, ¶ 2.

32. OSIF purposefully availed itself of the privilege and benefits of doing business in Maryland by, *inter alia*, entering into the Fourth Amendment. OSIF acquired an ownership interest in OncoImmune, a company with its principal place of business in Maryland, in exchange for the waiver of certain debts and future royalties. *Id.* at ¶¶ 2-6. OSIF remains a shareholder in OncoImmune, while perpetrating the conduct complained of herein. Since OSIF acquired its equity interest in OncoImmune, the value of its stock has increased significantly.

33. Under the License Agreement, as amended, the PATENT RIGHTS are said to include the claims of U.S. Patent Nos. 6,875,904, 7,161,058, and 7,744,984, and the pending claims of several other U.S. patent applications that were abandoned by or at the direction of OSIF or OSURF at various times between 2006 and 2010.

34. The MAB Technology is, or during the term of the License Agreement was, comprehended by the definitions of LICENSED PRODUCTS and LICENSED PROCESS as set forth in the License Agreement.

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35. In September of 2016, OncoImmune entered into an agreement with Party X (“X Agreement”). The X Agreement includes a sublicense to Party X under certain of the MAB Technology.

[UNDER SEAL]

36. In early 2017, OSIF was a party to multiple agreements with OncoImmune pertaining to a venture capital investment deal that was negotiated and closed in Maryland. A representative of OSIF participated in a telephonic shareholder meeting called to approve amendments to OncoImmune’s articles of incorporation related to the deal. OSIF also executed an investor’s rights agreement, a right of first refusal and co-sale agreement, and a voting agreement pertaining to the deal. At that time, OSIF was the eleventh shareholder out of a total of thirteen shareholders in OncoImmune.

37. In a demand letter dated July 14, 2017, OSIF, through its counsel, made, *inter alia*, the unsupported assertions that the BioLegend License is void *ab initio* because the Patent License between OncoImmune and OSIF “did not include a license to any biological materials or associated know-how” and “Amendment No. 4 to License Agreement” between OncoImmune and OSIF is voidable because OncoImmune induced OSIF to enter into that amendment by fraudulently representing that it could not pay OSIF past-due license fees or patent costs. A true copy of the said letter from OSIF’s counsel is attached as Exhibit G.

38. The aforesaid letter was initially issued to OncoImmune’s counsel in Ohio but was received by OncoImmune in Maryland.

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39. In the aforesaid letter, OSIF, through its counsel, demanded, *inter alia*: (i) OncoImmune immediately convey to OSIF all consideration received from BioLegend and other licensees of biological materials or know-how; (ii) OncoImmune pay 50% of all license consideration received by OncoImmune for sublicensees in the “Research” field of use; (iii) “Amendment No. 4 to License Agreement” be cancelled in favor of the License Agreement as it existed prior to that amendment; (iv) OncoImmune’s stipulation that OSIF is owed 30% of all revenue realized from the license between OncoImmune and Party X; and (v) OncoImmune’s agreement that any and all biological materials will be sold only by sublicensees approved by OSIF. *See* Exhibit G.

40. OSIF’s demands are both wholly unfounded and outrageous.

41. Also in 2017, OSIF, with knowledge of the BioLegend License, contacted BioLegend directly on multiple occasions by telephone and e-mail. OSIF falsely represented its ownership of parts of the MAB Technology, which are sublicensed to BioLegend by OncoImmune, and inquired as to the circumstances of BioLegend’s access to and acquisition of the sublicensed materials. OSIF’s communications with BioLegend were calculated to damage OncoImmune’s business relationship with BioLegend and impact the value and marketability of the MAB Technology, the rights to which OncoImmune holds in Maryland.

42. Pursuant to, *inter alia*, the License Agreement, OSIF has no justifiable cause or lawful purpose to claim its ownership of the MAB Technology to the exclusion of OncoImmune in multiple, direct communications with BioLegend. OSIF’s conduct has negatively impacted OncoImmune’s relationship with BioLegend and the marketability of the MAB Technology.

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43. On August 16, 2017, OSIF filed a baseless lawsuit against OncoImmune in the Franklin County Common Pleas Court in Columbus, Ohio. OSIF's Complaint alleges that OncoImmune wrongfully converted certain L3D10 clone anti-CTLA-4 antibodies (characterized by OSIF as "Biological Materials"), which Biological Materials are part of the MAB Technology, the rights to which OncoImmune holds in Maryland. Pursuant to its Complaint, OSIF requests, *inter alia*: (i) that OncoImmune be enjoined from utilizing the Biological Materials, which are an economic driver in Maryland; (ii) disgorgement of OncoImmune's gains from the Biological Materials; and, (iii) that OncoImmune be enjoined to return the Biological Materials to OSIF and to secure the return of the Biological Materials from any third parties to whom they have been transferred.

44. OncoImmune was served with the Summons and Complaint for the aforementioned suit on August 29, 2017.

45. OSIF's claim of conversion therein constitutes an allegation that OncoImmune is infringing, or that OncoImmune is contributing to infringement of the PATENT RIGHTS, as well as that OncoImmune is acting in contravention to the License Agreement, including as amended.

46. OSIF's suit is groundless based upon, *inter alia*, the rights afforded to OncoImmune under the License Agreement. OSIF's intentional and malicious conduct, complained of herein, is in breach of the License Agreement and calculated to interfere with OncoImmune's legitimate business interests.

47. As a result, OncoImmune has experienced significant harm and loss within this judicial district.

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48. For instance, as a result of the OSIF's conduct, Party X has advised OncoImmune

[Under Seal]

49. Additionally, as a result of OSIF's conduct,

[Under Seal]

50. OSIF's conduct complained of herein, including intentionally breaching the License Agreement, purposefully interfering with OncoImmune's business relations, and filing a baseless lawsuit, are overt and unlawful efforts intended solely to harass OncoImmune and leverage a position with OncoImmune, from which OSIF hopes to negotiate for more money from OncoImmune related to, *inter alia*, the X Agreement.

51. OSIF's flagrant and malicious conduct impacting OncoImmune cannot be condoned and must be redressed and punished.

**COUNT I: DECLARATORY JUDGMENT THAT LICENSE TO
THE MAB TECHNOLOGY IS NOT INVALID FOR FRAUD**

52. OncoImmune incorporates and realleges the preceding paragraphs as if set forth fully herein.

53. OSIF asserts that the Fourth Amendment to the License Agreement is invalid for alleged fraud on the part of OncoImmune in inducing formation of that amendment.

54. Contrary to OSIF's assertions, OncoImmune did not fraudulently represent to OSIF that it could not pay OSIF past-due license fees or patent costs.

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55. Contrary to OSIF's assertions, OSIF chose to enter into the Fourth Amendment and accept equity in OncoImmune rather than the alternative of OncoImmune exercising its right to terminate the License Agreement.

56. The Fourth Amendment to the License Agreement is valid and enforceable.

57. OSIF's assertions impair, and threaten to imminently impair, both OncoImmune's exercise of its rights under the License Agreement, as well as its contractual relations with BioLegend and Party X as sublicensees under the License Agreement. An actual and justiciable controversy therefore exists between OncoImmune and OSIF regarding the validity of the Fourth Amendment.

58. A judicial declaration of the License Agreement's validity is necessary and appropriate in order to resolve this controversy.

59. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 and 2202, OncoImmune is entitled to judgment from this Court that the Fourth Amendment to the License Agreement is valid and enforceable.

COUNT II: DECLARATORY JUDGMENT THAT SCOPE OF LICENSE IS TO, AND INCLUDES, RIGHT TO SUBLICENSE THE MAB TECHNOLOGY

60. OncoImmune incorporates and realleges the preceding paragraphs as if set forth fully herein.

61. OSIF asserts that the License Agreement, including as amended, does not permit OncoImmune to sublicense third party BioLegend under the MAB Technology, as set forth in the BioLegend License.

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62. OSIF asserts that the License Agreement, including as amended, does not permit OncoImmune to sublicense Party X under the MAB Technology, as set forth in the X Agreement.

63. OSIF's assertions impair, and threaten to imminently impair, both OncoImmune's exercise of its rights under the License Agreement, as well as its contractual relations with third parties BioLegend and Party X as sublicensees under the License Agreement. An actual and justiciable controversy therefore exists between OncoImmune and OSIF regarding the scope of the License Agreement, including as amended.

64. A judicial declaration respecting the scope of the License Agreement, including as amended, and confirming that OncoImmune is not in breach thereof, is necessary and appropriate in order to resolve this controversy.

65. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 and 2202, OncoImmune is entitled to judgment from this Court that the License Agreement, including as amended, permits or, in the alternative, does not prohibit OncoImmune from sublicensing third parties BioLegend and Party X under the MAB Technology.

COUNT III: TORTIOUS INTERFERENCE

66. OncoImmune incorporates and realleges the preceding paragraphs as if set forth fully herein.

67. OSIF's intentional and willful acts, which are calculated to cause damage to OncoImmune's legitimate business endeavors include, but are not limited to, OSIF's multiple, direct communications with BioLegend to falsely claim ownership of the MAB Technology that OncoImmune sublicenses to BioLegend pursuant to the BioLegend License.

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68. OSIF's intentional and willful acts, which are calculated to cause damage to OncoImmune's legitimate business endeavors also include, but are not limited to, OSIF instituting a groundless civil suit against OncoImmune, which caused Party X to advise OncoImmune

[Under Seal]

69. Additionally, as a result of OSIF's conduct complained of herein,

[Under Seal]

70. OSIF's conduct is perpetrated with the unlawful purpose of causing significant damage and loss, which is experienced by OncoImmune in Maryland.

71. Pursuant to, *inter alia*, the License Agreement, OSIF is without right or justifiable cause to interfere with OncoImmune's business relations related to sublicensing the MAB Technology.

72. OSIF's tortious conduct is directed at impacting the value and marketability of OncoImmune's rights to the MAB Technology and causing harm to OncoImmune experienced in Maryland.

73. OSIF's conduct constitutes malice towards OncoImmune.

74. OSIF's conduct has caused OncoImmune economic damages, including without limitation in the form of lost investment capital, license fees, and/or other income and lost value in future investment, in an amount to be established at trial but in no event less than ten and a half million dollars.

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75. OncoImmune is entitled to an award of damages proximately caused by OSIF's conduct as complained of herein.

76. OncoImmune is also entitled to an award of punitive damages based upon OSIF's tortious conduct accompanied by malice.

COUNT IV: BREACH OF CONTRACT

77. OncoImmune incorporates and realleges the preceding paragraphs as if set forth fully herein.

78. The License Agreement, including as amended, is a valid contract binding OSIF whereby OSIF owes OncoImmune contractual obligations.

79. As set forth herein, OSIF knowingly, intentionally, maliciously, and materially breached the obligations in the License Agreement including, *inter alia*, Article 4 – SUBLICENSES, which provides OncoImmune the right to enter into sublicensing agreements. *See Exhibit A, Article 4; see Exhibit G.*

80. As a result of OSIF's breaching conduct, *inter alia*, Party X has advised OncoImmune

[Under Seal]

81. Also, as a result of OSIF's breaching conduct, OncoImmune's long-standing business relationship with BioLegend has been negatively affected.

82. Further, as a result of OSIF's conduct,

[Under Seal]

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83. By the nature of OSIF's conduct complained of herein, OSIF has materially breached the License Agreement. Without limitation, such conduct includes OSIF's intentional and malicious efforts to undermine OncoImmune's sublicenses to Party X and BioLegend, and its further attempts to revoke the rights conveyed to OncoImmune by the License Agreement.

84. OSIF's breaches have proximately caused OncoImmune economic damages, including without limitation in the form of lost investment capital, license fees, and/or other income and lost value in future investment, in an amount to be established at trial but in no event less than ten and a half million dollars.

85. OncoImmune is entitled to an award of damages proximately caused by OSIF's conduct as complained of herein.

COUNT V: DECLARATORY JUDGMENT OF NON-INFRINGEMENT

86. OncoImmune incorporates and realleges the preceding paragraphs as if set forth fully herein.

87. Contrary to OSIF's assertions that OncoImmune is not authorized to sublicense the MAB Technology, OncoImmune's sublicense of the MAB Technology to third party BioLegend under the BioLegend License was at all relevant times within the scope of OncoImmune's license under the PATENT RIGHTS and, as such, OncoImmune is not contributing to infringement of the PATENT RIGHTS. Moreover, to the extent any of the PATENT RIGHTS have expired or become abandoned, they would not comprehend the MAB Technology licensed to third party BioLegend under the BioLegend License and, as such, the MAB Technology licensed to third party BioLegend would not infringe those PATENT RIGHTS.

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88. Contrary to OSIF's assertions that OncoImmune is not authorized to sublicense the MAB Technology, OncoImmune's sublicense of the MAB Technology to Party X under the X Agreement was at all relevant times within the scope of OncoImmune's license under the PATENT RIGHTS and, as such, OncoImmune is not contributing to infringement of the PATENT RIGHTS. Moreover, to the extent any of the PATENT RIGHTS have expired or become abandoned, they would not comprehend the MAB Technology licensed to Party X under the X Agreement and, as such, the MAB Technology licensed to Party X would not infringe those PATENT RIGHTS.

89. OSIF's assertions impair, and threaten to imminently impair, both OncoImmune's exercise of its rights under the License Agreement, as well as its contractual relations with third parties BioLegend and Party X as sublicensees under the License Agreement. An actual and justiciable controversy, therefore, exists between OncoImmune and OSIF.

90. A judicial declaration of non-infringement is necessary and appropriate in order to resolve this controversy.

91. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 and 2202, OncoImmune is entitled to judgment from this Court that OncoImmune is not infringing any of the PATENT RIGHTS, as that term is defined by the License Agreement, including as amended.

COUNT VI: PERMANENT INJUNCTION

92. OncoImmune incorporates and realleges the preceding paragraphs as if set forth fully herein.

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93. By the nature of OSIF's claims to rights in the MAB Technology, breach of the License Agreement, and tortious conduct, OSIF evidences its intent to interfere with OncoImmune's contractual relationships with third parties, including, but not limited to Party X and BioLegend.

94. By the nature of OSIF's claims to rights in the MAB Technology, breach of the License Agreement, and tortious conduct, OSIF also evidences its intent to interfere with OncoImmune's existing and prospective business relationships with third parties.

95. As a result, OncoImmune will suffer harm in the form of lost business opportunities and damage to its reputation for which money damages are not adequate compensation.

96. OSIF should be enjoined from interfering with OncoImmune's contractual relationships with third parties, including, but not limited to Party X and BioLegend, enjoined from interfering with OncoImmune's existing and prospective business relationships with third parties, and enjoined from interfering with OncoImmune's efforts to sublicense any and all biological materials relating to the MAB Technology.

PRAYER FOR RELIEF

WHEREFORE, OncoImmune respectfully requests that this Court enter judgment in its favor as follows:

A. Declaring that the License Agreement, as amended, including the Fourth Amendment, is valid and enforceable;

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B. Declaring that OncoImmune's sublicense of the MAB Technology to third parties BioLegend and Party X does not infringe the PATENT RIGHTS or otherwise breach the terms of the License Agreement, including as amended;

C. Finding OSIF liable for tortious interference;

D. Finding OSIF liable for breach of the License Agreement;

E. Declaring that this case is exceptional pursuant to 35 U.S.C. § 285, and awarding OncoImmune its reasonable attorneys' fees and costs;

F. Awarding OncoImmune its costs, disbursements, and other expenses to the fullest extent permitted by law;

G. Preliminarily and permanently enjoining OSIF from further conduct inconsistent with the rights of OncoImmune as settled by this action;

H. Awarding OncoImmune its actual damages resulting from OSIF's complained of conduct;

I. Awarding OncoImmune punitive damages based upon OSIF's tortious conduct accompanied by malice; and

J. Awarding OncoImmune such other and further relief as the Court deems just and proper.

Dated: November 2, 2017

Respectfully submitted,

ONCOIMMUNE, INC.

/s/ H. Jonathan Redway

H. Jonathan Redway, Esq. (M.D. Bar No. 29708)
Joan Ellis, Esq.

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JURY DEMAND

OncoImmune hereby demands a trial by jury as to the claims set forth herein.

/s/ H. Jonathan Redway
H. Jonathan Redway, Esq. (M.D. Bar No. 29708)

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2017, a copy of the foregoing was served via the Court's CM/ECF system upon all counsel indicated on the filing receipt.

/s/ H. Jonathan Redway
H. Jonathan Redway, Esq. (M.D. Bar No. 29708)

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