

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

THE MATHILDA AND TERENCE KENNEDY)	
INSTITUTE OF RHEUMATOLOGY TRUST,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
UCB, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT

Plaintiff, THE MATHILDA AND TERENCE KENNEDY INSTITUTE OF RHEUMATOLOGY TRUST (“KENNEDY”), through its attorneys, complaining of Defendant, UCB, INC. (“UCB”), alleges as follows:

THE PARTIES

1. KENNEDY is a registered charity organized and existing under the laws of the United Kingdom, having a place of business at 65 Aspenlea Road, Hammersmith, London W6 8LH England.

2. UCB is a corporation organized and exiting under the laws of the State of Delaware, having a place of business at 1950 Lake Park Drive, Smyrna, Georgia 30080. UCB is doing business within this Judicial District.

3. On information and belief, UCB promotes, advertises, distributes, offers for sale and sells an anti-tumor necrosis factor alpha antibody or fragment thereof under the brand name CIMZIA (certolizumab pegol).

NATURE OF CLAIM, JURISDICTION AND VENUE

4. This action for patent infringement arises under the Patent Law of the United States, 35 U.S.C. §1 et seq.

5. This Court has jurisdiction over the parties and the subject matter pursuant to 28 U.S.C. §§ 1331, 1332(a) and 1338(a). The matter in controversy exceeds the amount of \$75,000, exclusive of interest and costs.

6. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

FACTS

7. KENNEDY is the owner of all right, title and interest in and to U.S. Patent No. 6,270,766, granted August 7, 2001, entitled “Anti-TNF Antibodies and Methotrexate in the Treatment of Arthritis and Crohn’s Disease” (“the 766 patent”). The ‘766 patent relates to treating arthritis and other diseases by co-administering methotrexate and an anti-tumor necrosis factor alpha antibody or fragment thereof (“anti-TNF α antibody”).

8. The KENNEDY inventors named on the ‘766 patent, Sir Marc Feldmann and Sir Ravinder Maini, have received critical recognition for their invention, including the Janssen Award for Biomedical Research, the Lasker Award for Medical Research, the Inventor of the Year Award by the European Patent Office (to Dr. Feldmann), and the Crafoord Prize of the Royal Swedish Academy of Science. Both Dr. Maini and Dr. Feldmanm have been awarded knighthoods by Queen Elizabeth II and both have been elected to the Royal Society.

9. The three largest distributors of anti-TNF α antibodies and receptors worldwide are Centocor (a subsidiary of Johnson & Johnson), Abbott Laboratories and a joint promotional arrangement of Amgen and Wyeth (a unit of Pfizer).

10. KENNEDY has licensed all of these major pharmaceutical companies under the '766 patent. Centocor (J&J), Abbott Laboratories, Amgen and Wyeth (Pfizer) have paid to KENNEDY tens of millions of dollars in royalties for use of the '766 patent.

11. Despite due notice and repeated demands, UCB has refused to pay reasonable royalties to KENNEDY for use of the '766 patent.

CLAIM FOR PATENT INFRINGEMENT

12. KENNEDY'S '766 patent is valid and enforceable.

13. UCB has infringed and induced infringement of at least claims 1 and 8 of the '766 patent by promoting, advertising, distributing, offering for sale and selling CIMZIA anti-TNF α antibodies or fragments thereof for intended use in treating arthritis in individuals in need of treatment by co-administering to the individuals, in therapeutically effective amounts, methotrexate and the anti-TNF α antibodies or fragments thereof, without KENNEDY's consent or authorization.

14. On information and belief, UCB's infringement was and is intentional and willful.

15. On information and belief, UCB will continue to infringe and induce infringement of KENNEDY's '766 patent unless and until it is precluded from doing so by this Court. KENNEDY has been and is likely to be irreparably injured by the continued infringement and has no adequate remedy at law.

WHEREFORE, Plaintiff KENNEDY demands Judgment:

- (a) That Defendant UCB has infringed and induced infringement of KENNEDY'S '766 patent;
- (b) That Defendant UCB, and all those in active concert or participation with it, be enjoined from promoting, advertising, distributing, offering for sale and selling anti-TNF α antibodies or fragments thereof for co-administered use with methotrexate for treating individuals having arthritis without the authorization and consent of KENNEDY;
- (c) That Defendants UCB pay to KENNEDY damages sustained by KENNEDY in an amount no less than a reasonable royalty plus interest and that the damages be trebled on account of willful infringement;
- (d) That Defendant UCB pay to KENNEDY its attorneys' fees and costs; and
- (e) That Plaintiff KENNEDY be awarded such other and further relief as the Court deems just and proper.

Dated: August 3, 2010

/s/ Richard K. Herrmann

Richard K. Herrmann (I.D. #405)
Mary B. Matterer (I.D. #2696)
MORRIS JAMES LLP
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801-1494
Telephone: (302) 888-6800
rherrmann@morrisjames.com

Of Counsel:

John P. White
Norman H. Zivin
COOPER & DUNHAM LLP
30 Rockefeller Plaza
New York, New York 10112
Telephone: (212) 278-0400
jwhite@cooperdunham.com
nzivin@cooperdunham.com

Attorneys for Plaintiff