UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

INVITROGEN CORPORATION,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	**Civil Action No. 6:08-cv-112**
	§	
GENERAL ELECTRIC COMPANY d.b.a. GE HEALTHCARE; GE HEALTHCARE BIO-SCIENCES CORP.; and DOES 1 through 5,	§	**JURY TRIAL DEMANDED**
	§	
Defendants.	§	

INVITROGEN CORPORATION'S COMPLAINT
FOR PATENT INFRINGEMENT

Plaintiff INVITROGEN CORPORATION ("Plaintiff") for its Complaint against Defendants GENERAL ELECTRIC COMPANY d.b.a. GE HEALTHCARE, GE HEALTHCARE BIO-SCIENCES CORP., and DOES 1 through 5, inclusive (collectively, the "Defendants"), alleges as follows:

JURISDICTION AND VENUE

1. This civil action for patent infringement arises under the patent laws of the United States, specifically under Title 35 of the United States Code, Sections 271, *et seq*. Jurisdiction in this Court is founded upon 28 U.S.C. §§ 1331 and 1338(a). The Court has personal jurisdiction over the Defendants in that they regularly conduct business in this district and have committed acts in this judicial district which give rise to this action.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 28 U.S.C. § 1400(b) because Defendants have committed acts within this judicial district giving rise to this action, including offering infringing products for sale in this district.

THE PARTIES

3. Plaintiff is a Delaware corporation, with its principal place of business at 5791 Van Allen Way, Carlsbad, CA 92008.

4. Plaintiff is informed and believes, and on that basis alleges, that Defendant GENERAL ELECTRIC COMPANY, d.b.a. GE HEALTHCARE (formerly AMERSHAM PLC), and its wholly owned subsidiary Defendant GE HEALTHCARE BIO-SCIENCES CORP., have a United States Head Office at 800 Centennial Avenue, P.O. Box 1327, Piscataway, NJ 08855.

5. The true names and capacities, whether individual or otherwise, of Defendants Does 1 through 5, inclusive, are unknown to Plaintiff. Plaintiff therefore sues the Doe Defendants by such fictitious names. Plaintiff is informed and believes, and on that basis alleges, that each of the Doe Defendants is responsible in some manner for the events and happenings alleged below, and that each individually or as a group caused injuries and damages proximately thereby, as hereinafter alleged.

CLAIM FOR RELIEF
(PATENT INFRINGEMENT)

6. Plaintiff repeats and realleges the allegations set forth in preceding paragraphs 1 through 5, inclusive.

7. United States Letters Patent No. 6,610,522 (the "'522 Patent"), was duly and legally issued from the United States Patent Office on August 26, 2003. Plaintiff has lawfully acquired the entire right, title and interest in and to the '522 Patent. The '522 Patent expired January 13, 2008. A true and correct copy of the '522 Patent is attached hereto and incorporated herein by reference as Exhibit "1."

8. United States Letters Patent No. 6,589,768 (the "'768 Patent"), was duly and legally issued from the United States Patent Office on July 8, 2003. Plaintiff has lawfully

acquired the entire right, title and interest in and to the ‘768 Patent. The ‘768 Patent expired January 13, 2008. A true and correct copy of the ‘768 Patent is attached hereto and incorporated herein by reference as Exhibit “2.”

9. United States Letters Patent No. 6,063,608 (the “‘608 Patent”), was duly and legally issued from the United States Patent Office on May 16, 2000. Plaintiff has lawfully acquired the entire right, title and interest in and to the ‘608 Patent. The ‘608 Patent expired January 13, 2008. A true and correct copy of the ‘608 Patent is attached hereto and incorporated herein by reference as Exhibit “3.”

10. United States Letters Patent No. 5,668,005 (the “‘005 Patent”), was duly and legally issued from the United States Patent Office on September 16, 1997. Plaintiff has lawfully acquired the entire right, title and interest in and to the ‘005 Patent. The ‘005 Patent expired January 13, 2008. A true and correct copy of the ‘005 Patent is attached hereto and incorporated herein by reference as Exhibit “4.”

11. United States Letters Patent No. 5,244,797 (the “‘797 Patent”), was duly and legally issued from the United States Patent Office on September 14, 1993. Plaintiff has lawfully acquired the entire right, title and interest in and to the ‘797 Patent. A true and correct copy of the ‘797 Patent is attached hereto and incorporated herein by reference as Exhibit “5.”

12. United States Letters Patent No. 5,405,776 (the “‘776 Patent”), was duly and legally issued from the United States Patent Office on April 11, 1995. Plaintiff has lawfully acquired the entire right, title and interest in and to the ‘776 Patent. A true and correct copy of the ‘776 Patent is attached hereto and incorporated herein by reference as Exhibit “6.”

13. Plaintiff is informed and believes, and on that basis alleges, that Defendants make, manufacture, use, promote, market, advertise, distribute, import, offer for sale and sell

and/or cause to be offered or sold certain reverse transcriptase enzymes and kits including such reverse transcriptase enzymes (the "Infringing Products") that have infringed one or more claims of the '522 Patent prior to its expiration, literally and/or under the doctrine of equivalents, including at least Claims 43, 46-47, 50-53, 56, 57, 60-62, 83, 84, and 97.

14. Plaintiff is informed and believes, and on that basis alleges, that Defendants make, manufacture, use, promote, market, advertise, distribute, import, offer for sale and sell and/or cause to be offered or sold certain reverse transcriptase enzymes and kits including such reverse transcriptase enzymes (the "Infringing Products") that have infringed one or more claims of the '768 Patent prior to its expiration, literally and/or under the doctrine of equivalents, including at least Claims 1, 2, 5-9, 14-22, 25, 26, 29-33, 38-42, 45-49, 54-62, 65, 66, 69-73, 78-95, 98-101, 104, 107-118, 121-126, 129-132, 135, 138-141, 163, 165-167, 168, 171-174, 177, 178, 181-184, and 187.

15. Plaintiff is informed and believes, and on that basis alleges, that Defendants make, manufacture, use, promote, market, advertise, distribute, import, offer for sale and sell and/or cause to be offered or sold certain reverse transcriptase enzymes and kits including such reverse transcriptase enzymes (the "Infringing Products") that have infringed one or more claims of the '608 Patent prior to its expiration, literally and/or under the doctrine of equivalents, including at least Claims 3, 4, 12, 13, 31, 32, 37, 40, 41, 95, 96, 102, and 103.

16. Plaintiff is informed and believes, and on that basis alleges, that Defendants make, manufacture, use, promote, market, advertise, distribute, import, offer for sale and sell and/or cause to be offered or sold certain reverse transcriptase enzymes and kits including such reverse transcriptase enzymes (the "Infringing Products") that have infringed one or more claims

of the ‘005 Patent prior to its expiration, literally and/or under the doctrine of equivalents, including at least Claims 21-25, 27-29.

17. Plaintiff is informed and believes, and on that basis alleges, that Defendants make, manufacture, use, promote, market, advertise, distribute, import, offer for sale and sell and/or cause to be offered or sold certain reverse transcriptase enzymes and kits including such reverse transcriptase enzymes (the “Infringing Products”) that infringe one or more claims of the ‘797 Patent literally and/or under the doctrine of equivalents, including at least Claims 1 and 2.

18. Plaintiff is informed and believes, and on that basis alleges, that Defendants make, manufacture, use, promote, market, advertise, distribute, import, offer for sale and sell and/or cause to be offered or sold certain reverse transcriptase enzymes and kits including such reverse transcriptase enzymes (the “Infringing Products”) that infringe one or more claims of the ‘776 Patent literally and/or under the doctrine of equivalents, including at least Claim 9.

19. Defendants’ Infringing Products include its CyScript™ reverse transcriptase and CyScript™-containing products (*e.g.*, Product Numbers RPN6200, RPN6201, RPN6202, RPN6200x, RPN6201x, RPN6202x, RPN 5660, RPN 5660x, and RPN5650).

20. Plaintiff has been damaged and has suffered irreparable injury due to the Defendants’ acts of infringement, and Plaintiff will continue to suffer irreparable injury unless Defendants’ acts are enjoined.

21. Plaintiff has suffered and will continue to suffer substantial damage to its business in the form of lost profits by reason of Defendants’ acts of patent infringement as alleged herein, and Plaintiff is entitled to recover from Defendants the damages sustained as a result of Defendants’ acts.

22. Plaintiff is informed and believes, and on that basis alleges, that Defendants have willfully infringed the '522, '768, '608, '005, '776 and/or '797 Patents, in disregard of Plaintiff's rights.

23. Plaintiff is informed and believes, and on that basis alleges, that Defendants' acts make this an exceptional case within the meaning of 35 U.S.C. § 285.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests that the Court enter judgment in its favor, and against Defendants, as follows:

1. That Plaintiff is the owner of the '522, '768, '608, '005, '776 and '797 Patents;

2. That Defendants have infringed literally and/or under the doctrine of equivalents, one or more claims of the '522, '768, '608, '005, '776 and '797 Patents;

3. That Defendants and their subsidiaries, affiliates, parents, successors, assigns, officers, agents, servants, employees, attorneys, and all other persons acting in concert or in participation with them, be temporarily and preliminarily enjoined during the pendency of this action, and permanently enjoined thereafter, from infringing the '797 and '776 Patents, and specifically from directly or indirectly making, manufacturing, using, promoting, marketing, advertising, distributing, importing, offering for sale and selling and/or causing to be offered or sold any products or services embodying the inventions of the '797 and '776 Patents during the life of the claims of the '797 and '776 Patents without the express written authority of Plaintiff;

4. That Defendants be directed to fully compensate Plaintiff for all damages attributable to Defendants' infringement of the '522, '768, '608, '005, '776 and '797 Patents in an amount according to proof at trial, but not less than a reasonable royalty;

5. That Defendants be ordered to deliver to Plaintiff, for destruction at Plaintiff's option, all products that infringe the '522, '768, '608, '005, '776 and '797 Patents;

6. That Defendants be required to account for all gains, profits, advantages, and unjust enrichment derived from their violations of the law;

7. That this case be deemed "exceptional" within the meaning of 35 U.S.C. § 285;

8. That Plaintiff be awarded its reasonable attorneys' fees incurred in connection with this matter;

9. That Plaintiff be awarded enhanced damages and/or costs pursuant to 35 U.S.C. § 285 and/or applicable law;

10. That Plaintiff be awarded the costs of suit, and an assessment of interest; and,

11. That Plaintiff have such other, further, and different relief as the evidence may require and as the Court deems proper under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all matters herein so triable.

Dated: March 26, 2008.

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