

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SIGMA-ALDRICH, INC.,)	
)	
Co-Plaintiff)	
)	
and)	
)	
OXFORD BIOMEDICA (UK) LTD.,)	
)	
Co-Plaintiff,)	
)	
v.)	Case No. 4:06-CV-00754-CAS
)	
OPEN BIOSYSTEMS, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

AMENDED COMPLAINT

Sigma-Aldrich, Inc. ("Sigma") and Oxford BioMedica (UK) Ltd. ("Oxford BioMedica"), by their attorneys, for their Amended Complaint against Open Biosystems, Inc. ("Open Biosystems"), state and allege as follows:

THE PARTIES

1. Sigma is a corporation organized and existing under the laws of the State of Wisconsin with its principal place of business at 3050 Spruce St., Saint Louis, MO 63103.
2. Oxford BioMedica is a corporation organized and existing under the laws of England with its principal place of business at Medawar Centre, Robert Robinson Ave., Oxford Science Park, Oxford, OX4 4GA UK.
3. Upon information and belief, Defendant Open Biosystems was founded in 2001 and is a corporation organized under the laws of Delaware, having its principal place of business at 6705 Odyssey Drive, Huntsville, AL 35806.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271; 281-285.
5. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(a-c), 28 U.S.C. § 1400(b), and/or E.D.Mo. L.R. 2.07(B)(3-4).

COUNT I - PATENT INFRINGEMENT (U.S. PATENT NO. 6,924,123)

7. U.S. Patent No. 6,924,123 issued August 2, 2005 (copy attached as Exhibit A) (“the ‘123 patent”) entitled “Lentiviral LTR-deleted Vector”, was duly and legally issued to Oxford BioMedica as assignee of inventors Alan John Kingsman and Susan Mary Kingsman.
8. Sigma is a licensee of the ‘123 patent for products in the research field under a license agreement with Oxford BioMedica.
9. Open Biosystems has manufactured, used, offered for sale, and/or sold products that infringe the ‘123 patent, and/or has actively induced or contributed to the infringement of the ‘123 patent, including in this judicial district.
10. Upon information and belief, Open Biosystems has actual knowledge of the ‘123 patent, and Open Biosystems’ infringement of this patent has been and continues to be willful and deliberate.
11. Sigma and Oxford BioMedica have suffered irreparable harm by Open Biosystems’ infringement of the ‘123 patent and will continue to suffer irreparable harm in the future unless Open Biosystems is enjoined from infringing the ‘123 patent.

COUNT II - PATENT INFRINGEMENT (U.S. PATENT NO. 7,056,699)

12. U.S. Patent No. 7,056,699 issued June 6, 2006 (copy attached as Exhibit B) (“the ‘699 patent”) entitled “Lentiviral LTR-deleted Vector”, was duly and legally issued to Oxford BioMedica as assignee of inventors Alan John Kingsman and Susan Mary Kingsman.

13. Sigma is a licensee of the ‘699 patent for products in the research field under a license agreement with Oxford BioMedica.

14. Open Biosystems has manufactured, used, offered for sale, and/or sold products that infringe the ‘699 patent, and/or has actively induced or contributed to the infringement of the ‘699 patent, including in this judicial district.

15. Upon information and belief, Open Biosystems has actual knowledge of the ‘699 patent, and Open Biosystems’ infringement of this patent has been and continues to be willful and deliberate.

16. Sigma and Oxford BioMedica have suffered irreparable harm by Open Biosystems’ infringement of the ‘699 patent and will continue to suffer irreparable harm in the future unless Open Biosystems is enjoined from infringing the ‘699 patent.

REQUEST FOR RELIEF

WHEREFORE, Sigma and Oxford BioMedica pray for the following relief:

- A. A judgment that Defendant has infringed United States Patent No. 6,924,123;
- B. A judgment that Defendant has infringed United States Patent No. 7,056,699;
- C. A preliminary injunction enjoining and restraining Defendant, its officers, directors, agents, servants, employees, attorneys and all others acting under or through them, directly or indirectly, from infringing United States Patent Nos. 6,924,123 and 7,056,699;

- D. An injunction enjoining and restraining Defendant, its officers, directors, agents, servants, employees, attorneys and all others acting under or through them, directly or indirectly, from infringing United States Patent Nos. 6,924,123 and 7,056,699;
- E. A judgment and order requiring that Defendant pay damages under 35 U.S.C. § 284, with prejudgment interest;
- F. A judgment and order that this is an exceptional case under 35 U.S.C. § 285 and directing Defendant to pay costs of this action (including all disbursements) and attorneys' fees with prejudgment interest; and
- G. Such other and further relief as this Court may deem just and equitable.

Respectfully submitted,

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And

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*Once Pro Hac Vice Applications have been filed and
granted, Darby & Darby, P.C. will replace Sonnenschein
Nath & Rosenthal LLP as counsel for Co-Plaintiff Oxford
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