

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

MERIAL LIMITED
27 Knightsbridge
London SW1X 7QT
United Kingdom;
3239 Satellite Blvd.
Duluth, GA 30096-4640;

and

MERIAL SAS
29, Avenue Tony Garnier
69007 Lyon
France,

Plaintiffs,

v.

INTERVET, INC.
29160 Intervet Lane
Millsboro, DE 19966,

Defendant.

Civil Action No. _____

**COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

Plaintiffs Merial Limited and Merial SAS, (collectively “Merial”), for their Complaint for Patent Infringement against Defendant Intervet, Inc. (“Intervet”), allege as follows:

NATURE OF ACTION

1. This is an action for which Merial seeks damages and injunctive relief under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, from Intervet’s infringement of Merial’s U.S. Patent No. 7,192,594, entitled POSTWEANING MULTISYSTEMIC WASTING

SYNDROME AND PORCINE CIRCOVIRUS FROM PIGS (“the ’594 patent”). A true and correct copy of the ’594 patent is attached as Exhibit A.

PARTIES

2. Merial is one of the world’s leading animal healthcare companies. Merial develops, produces and sells veterinary pharmaceuticals and vaccines for livestock, pets and wildlife. Of particular relevance here, Merial has contributed to and continues to research in the Swine Health field. Merial has products for controlling, treating, and preventing diseases in pigs and for alleviating pain and inflammation in pigs. Merial Limited is a company limited by shares registered in England and Wales with a registered office in England, and domesticated in the state of Delaware as Merial LLC. Merial’s North American Operational Headquarters is located in Duluth, Georgia. Merial SAS is a French Corporation that is affiliated with Merial Limited and has a principal place of business at 29, Avenue Tony Garnier, 69007 Lyon, France.

3. Upon information and belief, Defendant Intervet is a corporation, having its principal place of business located at 29160 Intervet Lane, Millsboro, Delaware, 19966.

JURISDICTION VENUE

4. This Court has subject-matter jurisdiction over this matter pursuant to Title 28, United States Code, Sections 1331 and 1338(a).

5. On information and belief Intervet offers for sell, sells, or causes to be sold veterinary pharmaceuticals or vaccines in this judicial district and is thereby or otherwise doing business in this judicial district.

6. This Court has personal jurisdiction over Defendant Intervet by virtue of its actions and those of its agents which directly infringe or which induce or knowingly contribute in the

infringement of the '594 patent within this district and/or its systematic and continuous contact with this district.

7. Venue is proper in this District under Title 28, United States Code, Sections 1391 and 1400(b).

COUNT 1

CLAIM FOR INFRINGEMENT OF U.S. PATENT NO. 7,192,594

8. The allegations in Paragraphs 1 through 7 of this Complaint are incorporated by reference as if set forth in their entirety.

9. The United States Patent and Trademark Office ("USPTO") duly and legally issued the '594 patent on March 20, 2007.

10. By virtue of assignments recorded at the USPTO all rights in, to, and under the '594 patent have been assigned to Merial, and Merial has the exclusive worldwide right to enforce the '594 patent.

11. The '594 patent generally relates to Postweaning Multisystemic Wasting Syndrome (PMWS) and Porcine Circovirus (PCV) vaccines. PMWS is an infection of young pigs (usually 8-16 weeks old). PMWS tends to be a slow and progressive disease with a high fatality rate in affected pigs. PMWS can have devastating economic consequences. Mortality in acutely infected herds varies from 5 to 50%, and chronically infected herds may sustain losses of 15% from weaning to slaughter, on average. PCV is a causative agent of PMWS in pigs.

12. Merial's business activities include PCV vaccines for preventing PMWS in pigs. Indeed, Merial has been and continues to be involved in research involving PCV and PMWS. Merial publishes a quarterly Swine Bibliographical Bulletin and has also sponsored the

publication of a book on Porcine Circovirus and PMWS. Furthermore, Merial owns or has the exclusive rights under numerous patents worldwide in the field of Porcine Circovirus and PMWS. Through Merial SAS, Merial Limited makes a Porcine Circovirus vaccine called CIRCOVAC®. CIRCOVAC® is believed to be the first approved PCV vaccine. Merial is seeking authorization to market CIRCOVAC® in the United States. CIRCOVAC® is currently approved for use in sows in Europe and Canada. Over 350,000 sows in Europe have been vaccinated with CIRCOVAC®. CIRCOVAC® has been reported to be effective. Thus, Merial develops, has developed, makes, has made, uses, has used, sells, or has sold, or causes to be developed, made, used, or sold, PCV vaccines.

13. Upon information and belief, Intervet has infringed, contributed to the infringement of, and/or actively induced the infringement of claims of the '594 patent by making, using, selling, and/or offering for sale products, including but not limited to a PCV vaccine (Intervet's "infringing acts").

14. Intervet has notice of the '594 patent. Intervet's infringement of the '594 patent has been deliberate and willful.

15. Intervet's infringing acts have not been authorized by Merial.

16. As a direct result of Intervet's infringing acts, Merial has suffered and continues to suffer damages and irreparable harm.


WHEREFORE, Merial prays that the Court:

- (a) Enter a judgment that Intervet has infringed, either directly, by contribution and/or inducement, one or more claims of the '594 patent;
- (b) Permanently enjoin Intervet and those in privity with it from further acts of direct infringement, contributory infringement and inducement of infringement of the '594 patent;
- (c) Award Merial damages adequate to compensate it for Intervet's infringement of the '594 patent;
- (d) Declare that Intervet's infringement of the '594 patent has been knowing and willful;
- (e) Treble the award of damages pursuant to 35 U.S.C. § 284 and in view of the willful nature of Intervet's infringement;
- (f) Declare this to be an exceptional case pursuant to 35 U.S.C. § 285;
- (g) Award Merial its attorneys' fees, costs and expenses in this action; and
- (h) Award Merial prejudgment interest, and such further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Merial demands a trial by jury of all issues so triable in this action.

Respectfully submitted, this 4th day of April, 2007.



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