

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

PIONEER HI-BRED)	
INTERNATIONAL, INC.,)	Civil Action No. 06-cv-225
)	
Plaintiffs,)	
)	
v.)	
)	JURY TRIAL DEMANDED
GENOME AND AGRICULTURAL)	
BIOTECHNOLOGY, LLC,)	
)	
Defendant.)	

COMPLAINT

COMES NOW Plaintiff, Pioneer Hi-Bred International, Inc. ("Pioneer") and for its Complaint against Defendant, Genome and Agricultural Biotechnology, LLC (hereinafter "Defendant") states and alleges as follows:

THE PARTIES

1. Plaintiff Pioneer is a corporation organized and existing under the laws of the state of Iowa, with its principal place of business at 400 Locust Street, Ste. 800, Des Moines, Iowa 50306.

2. On information and belief, Defendant is a corporation organized and existing under the laws of the state of Illinois, with its principal place of business at 1 DRBI, Pleasant Hill Road #174, Carbondale, Illinois 62901.

VENUE AND JURISDICTION

3. This is an action for patent infringement arising under the patent laws, Title 35, United States Code. The Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant has provided certain soybean cyst nematode resistance information to at least two companies, which have breeding stations in Iowa, and in the Southern District of Iowa.

5. Venue in this district is proper under 28 U.S.C. § 1391, since some of the acts complained of, either in whole or part have occurred within this district.

COUNT I: PATENT INFRINGEMENT
(U.S. Patent No. 5,491,081)

6. Pioneer incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

7. On February 13, 1996, United States Letters Patent 5,491,081, entitled "Soybean Cyst Nematode Resistant Soybeans and Methods of Breeding and Identifying Resistant Plants" was duly and legally issued in the name of David M. Webb, and the entire right, title and interest in and to said patent has been assigned to Pioneer, as reflected by the information appearing on the face of the patent. A copy of the aforesaid patent is attached hereto as Exhibit 1.

8. Upon information and belief, Defendant has infringed certain claims of United States Patent No. 5,491,081 and threatens to continue its infringement without authority to do so, all in violation of 35 U.S.C. § 271. Plaintiff Pioneer has been damaged by Defendant's infringement of United States Patent No. 5,491,081 and will continue to be damaged in the future unless Defendant is permanently enjoined from infringing, either directly and indirectly said patent.

9. Upon information and belief, Defendant had both construction and actual notice of Plaintiff's patent and in particular that said patent was duly and legally issued and Defendant is aware or should be aware that its activities infringe United States Patent No. 5,491,081.

10. Defendant's infringement of United States Patent No. 5,491,081 is now and has been intentional, willful and deliberate.

COUNT II: PATENT INFRINGEMENT
(U.S. Patent No. 6,162,967)

11. Pioneer incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

12. On December 19, 2000, United States Letters Patent 6,162,967, entitled "Positional Cloning of Soybean Cyst Nematode Resistance Genes" was duly and legally issued in the name of David M. Webb, and the entire right, title and interest in and to said patent has been assigned to Plaintiff Pioneer, as reflected by the information appearing on the face of the patent. A copy of the aforesaid patent is attached hereto as Exhibit 2.

13. Upon information and belief, Defendant has directly and contributorily infringed certain claims of United States Patent No. 6,162,967, and has induced infringement of the patent by others, without authority to do so, all in violation of 35 U.S.C. § 271. Plaintiff Pioneer has been damaged by Defendant's infringement of United States Patent No. 6,162,967 and will continue to be damaged in the future unless Defendant is permanently enjoined from infringing, either directly or indirectly, said patent.

14. Upon information and belief, Defendant had both constructive and actual notice of Plaintiff's patent and in particular that said patent was duly and legally issued and Defendant

is aware or should be aware that its activities infringe, contributorily infringe and/or induce others to infringe United States Patent No. 6,162,967.

15. Defendant's infringement of United States Patent No. 6,162,967 is now and has been intentional, willful and deliberate.

COUNT III: PATENT INFRINGEMENT
(U.S. Patent No. 6,538,175)

16. Pioneer incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

17. On March 25, 2003, United States Letters Patent 6,538,175, entitled "Quantitative Trait Loci Associated With Soybean Cyst Nematode Resistance and Uses Thereof" was duly and legally issued in the name of David M. Webb, and the entire right, title, and interest in and to said patent has been assigned to Plaintiff Pioneer, as reflected by the information appearing on the face of the patent. A copy of the aforesaid patent is attached hereto as Exhibit 3.

18. Upon information and belief, Defendant has directly and contributorily infringed certain claims of United States Patent No. 6,538,175, and has induced infringement of the patent by others, without authority to do so, all in violation of 35 U.S.C. § 271. Plaintiff Pioneer has been damaged by Defendant's infringement of United States Patent No. 6,538,175 and will continue to be damaged in the future unless Defendant is permanently enjoined from infringing, either directly or indirectly, said patent.

19. Upon information and belief, Defendant had both constructive and actual notice of Plaintiff's patent and in particular that said patent was duly and legally issued and Defendant is aware or should be aware that its activities infringe, contributorily infringe and/or induce others to infringe United States Patent No. 6,538,175.

20. Defendant's infringement of United States Patent No. 6,538,175 is now and has been intentional, willful and deliberate.

PRAYER FOR RELIEF

WHEREFORE Plaintiff Pioneer prays for the following relief:

- a. A judgment against Defendant as to all counts in the Complaint;
- b. A judgment that Defendant has infringed United States Patent No. 5,491,081;
- c. A judgment that Defendant has infringed United States Patent No. 6,162,967;
- d. A judgment that Defendant has infringed United States Patent No. 6,538,175;
- e. An injunction enjoining and restraining Defendant, its officers, directors, agents, servants, employees, attorneys and all others acting in concert with them, directly or indirectly from infringing United States Patent No. 5,491,081;
- f. An injunction preliminarily and permanently enjoining and restraining Defendant, its officers, directors, agents, servants, employees, attorneys and all others acting in concert with them, directly or indirectly from infringing United States Patent No. 6,162,967;
- g. An injunction preliminarily and permanently enjoining and restraining Defendant, its officers, directors, agents, servants, employees, attorneys and all others acting in concert with them, directly or indirectly from infringing United States Patent No. 6,538,175;
- h. A judgment that Defendant's infringement of United States Patent No. 5,491,081 has been willful and deliberate;
- i. A judgment that Defendant's infringement of United States Patent No. 6,162,967 has been willful and deliberate;

j. A judgment that Defendant's infringement of United States Patent No. 6,538,175 has been willful and deliberate;

k. A judgment requiring Defendant to pay damages under 35 U.S.C. § 284 for the infringement of United States Patent No. 5,491,081, including treble damages due to the knowing, willful and wanton nature of Defendant's conduct;

l. A judgment requiring Defendant to pay damages under 35 U.S.C. § 284 for the infringement of United States Patent No. 6,162,967, including treble damages due to the knowing, willful and wanton nature of Defendant's conduct;

m. A judgment requiring Defendant to pay damages under 35 U.S.C. § 284 for the infringement of United States Patent No. 6,538,175, including treble damages due to the knowing, willful and wanton nature of Defendant's conduct;

n. A judgment and order directing Defendant to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285;

o. An award of prejudgment interests from the date of first patent infringement to entry of judgment; and

p. Such other and further relief as the Court deems equitable under the circumstances, including where appropriate, punitive damages for the Defendant's conduct.

DEMAND FOR JURY TRIAL

Pioneer hereby demands a trial by jury on all counts and all issues in this case.

Respectfully submitted,

/s/ Edmund J. Sease

Edmund J. Sease

Robert A. Hodgson

McKEE, VOORHEES & SEASE, P.L.C.

801 Grand Avenue, Suite 3200

Des Moines, IA 50309-2721

Phone: 515-288-3667

Fax: 515-288-1338

Email: sease@ipmvs.com

Email: hodgson@ipmvs.com

*ATTORNEYS FOR PLAINTIFF PIONEER HI-
BRED INTERNATIONAL, INC.*