

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

Mirus Bio, LLC
545 Science Drive
Madison, Wisconsin 53711,

Case No. 11-630

Plaintiff,

v.

Fugent, LLC
1902 Tennyson Lane
Madison, Wisconsin 53704,

Defendant.

COMPLAINT

Plaintiff Mirus Bio, LLC (“Mirus”), for a complaint against defendant Fugent, LLC (“Fugent”), alleges as follows:

1. Mirus is a Wisconsin limited liability company with its principal place of business at 545 Science Drive, Madison, Wisconsin 53711.
2. Fugent is a Wisconsin limited liability company with its principal place of business at 1902 Tennyson Lane, Madison, Wisconsin 53704, and whose registered agent is Vladimir Gurevich, 910 Shasta Drive, Madison, Wisconsin 53704.
3. Mirus is the owner, by assignment, of U.S. Patent No. 5,744,335 (“the ’335 patent”), a copy of which is attached as **Exhibit A**, which duly and lawfully issued April 28, 1998 and remains in full force and effect.
4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338, as it arises under patent laws of the United States, 35 U.S.C. § 1, et seq.

5. This Court has personal jurisdiction over Fugent as Fugent has its principal place of business and has committed infringing acts in this district.

6. Venue in this district is appropriate under 28 U.S.C. §§ 1391(b) and 1400.

7. Fugent makes, uses, sells and/or offers to sell a transfection reagent known as FuGene® 6, which is a nonliposomal reagent that contains an amphipathic compound and an effective amount of histone H1 for use in the transfection of DNA into cells.

8. Fugent's actions in making, using, selling and offering to sell FuGene® 6 infringes at least claims 1-4, 6 and 15 of the '335 patent, both literally and under the doctrine of equivalents.

9. Fugent's actions making, using, selling and offering to sell FuGene® 6 and in actively inducing others to sell FuGene® 6 in the United States constitutes active inducement of at least claims 1-4, 6 and 15 of the '335 patent in violation of 35 U.S.C. § 271(b), both literally and under the doctrine of equivalents.

10. Fugent has offered to sell and sold, and continues to offer and sell, FuGene® 6 in the United States for use in practicing at least claims 1-4, 6 and 15 of the '335 patent. Fugent did so knowing that FuGene® 6 is especially made and especially adapted for use in infringing at least claims 1-4, 6 and 15 of the '335 patent and is not a staple article or commodity of commerce suitable for any substantial noninfringing use. Accordingly, Fugent is liable to Mirus as a contributory infringer of the '335 patent under 35 U.S.C. § 271(c), both literally and under the doctrine of equivalents.

11. Fugent's infringing acts are willful in that Fugent had and has knowledge of Mirus's rights under the '335 patent but Fugent nonetheless has been and does infringe, and

actively induces and contributes to infringement by others of at least claims 1-4, 6 and 15 of the '335 patent.

12. Fugent's infringing acts have damaged and are continuing to cause damage to Mirus and have caused and are continuing to cause irreparable harm to Mirus unless enjoined by this Court.

WHEREFORE, Mirus demands judgment against Fugent as follows:

A. A declaration that Fugent infringes the '335 patent, both directly and indirectly, under 35 U.S.C. §§ 271(a), (b) and (c), both literally and under the doctrine of equivalents.

B. A permanent and preliminary injunction enjoining Fugent and all persons in active concert or participation with Fugent from infringement of the '335 patent.

C. A declaration that Fugent's infringement of the '335 patent is willful.

D. An award of all damages suffered by Mirus as a result of Fugent's infringement of the '335 patent.

E. A declaration that this is an exceptional case under 35 U.S.C. § 285 and an award of treble damages and reasonable actual attorneys' fees.

F. Such further relief as justice requires.

JURY DEMAND

Plaintiff demands a trial by jury on all issues properly tried to a jury.

Dated this 12th day of September 2011.

s/Allen A. Arntsen

Allen A. Arntsen (SBN 1015038)

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