

LITE DEPALMA GREENBERG, LLC

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Attorneys for Plaintiff

Resonant Biotechnologies, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RESONANT BIOTECHNOLOGIES, LLC,

Plaintiff,

v.

SRU BIOSYSTEMS, INC., CALIPER LIFE
SCIENCES, INC., NOVASCREEEN
BIOSCIENCES CORP., MARIZYME
CORP., OCEANIX BIOSCIENCES CO.,
XENOGEN CORP., CAMBRIDGE
RESEARCH & INSTRUMENTATION,
INC., BRISTOL-MYERS SQUIBB CO.,
ELAN CORP., PLC, ATHENA
NEUROSCIENCES, INC., ELAN
PHARMACEUTICALS, INC., ELAN DRUG
DELIVERY, INC., HIGHRES
BIOSOLUTIONS, INC., HIGHRES
BIOSOLUTIONS INTERNATIONAL, INC.,
X-CHEM, INC., and X-BODY, INC.,

Defendants.

Civil Action No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

For its Complaint against Defendants SRU Biosystems, Inc., Caliper Life Sciences, Inc.,
Novascreen Biosciences Corp., Marizyme Corp., Oceanix Biosciences Co., Xenogen Corp.,
Cambridge Research & Instrumentation, Inc., Bristol-Myers Squibb Co., Elan Corp., PLC,

Athena Neurosciences, Inc., Elan Pharmaceuticals, Inc., Elan Drug Delivery, Inc., HighRes Biosolutions, Inc., HighRes Biosolutions International, Inc., X-Chem, Inc. and X-Body, Inc. (collectively “Defendants”), Plaintiff Resonant Biotechnologies, LLC (“Plaintiff”) alleges as to its own acts, and on information and belief as to the acts of others, as follows:

THE PARTIES

1. Plaintiff is a Delaware limited liability company and maintains its principal place of business in Newport Beach, California.

2. On information and belief, Defendant SRU Biosystems, Inc. is a Delaware corporation with its principal place of business at 14-A Gill St., Woburn, Massachusetts 01801.

3. On information and belief, Defendant Caliper Life Sciences, Inc. is a Delaware corporation with its principal place of business at 68 Elm St., Hopkinton, Massachusetts 01748.

4. On information and belief, Defendant NovaScreen Biosciences Corp. is a Maryland corporation with its principal place of business at 7170 Standard Dr., Hanover, Maryland 21076.

5. On information and belief, Defendant Marizyme Corp. is a Maryland corporation with its principal place of business at 7170 Standard Dr., Hanover, Maryland 21076.

6. On information and belief, Defendant Oceanix Biosciences Corp. is a Maryland corporation with its principal place of business at 7170 Standard Dr., Hanover Maryland 21076.

7. On information and belief, Defendant Xenogen Corp. is a Delaware corporation with its principal place of business at 68 Elm St., Hopkinton, Massachusetts 01748.

8. On information and belief, Defendant Cambridge Research & Instrumentation, Inc. is a Delaware corporation with its principal place of business at 35-B Cabot Rd., Woburn, Massachusetts 01801.

9. On information and belief, Defendant Bristol-Myers Squibb Co. is a Delaware corporation with its principal place of business at 345 Park Avenue, New York, New York 10154, and also maintains offices in Princeton, New Jersey, among other locations.

10. On information and belief, Defendant Elan Corp., PLC is a corporation organized under the laws of Ireland, with its principal place of business at Treasury building, Lower Grand Canal St., Dublin 2, Ireland.

11. On information and belief, Defendant Athena Neurosciences, Inc. is a Delaware corporation with its principal place of business at 800 Gateway Boulevard, South San Francisco, California 94080.

12. On information and belief, Defendant Elan Pharmaceuticals, Inc. is a Delaware corporation with its principal place of business at 800 Gateway Boulevard, South San Francisco, California 94080.

13. On information and belief, Defendant Elan Drug Delivery, Inc. is a Delaware corporation with its principal place of business at 3000 Horizon Drive, King of Prussia, Pennsylvania 19406.

14. On information and belief, Defendant HighRes Biosolutions, Inc. is a Massachusetts corporation with its principal place of business at 299 Washington Street, Suite B, Woburn, Massachusetts 01801.

15. On information and belief, Defendant HighRes Biosolutions International, Inc. is a Massachusetts corporation with its principal place of business at 299 Washington Street, Suite B, Woburn, Massachusetts 01801.

16. On information and belief, Defendant X-Chem, Inc. is a Delaware corporation with its principal place of business at 100 Beaver St, Suite 101, Waltham, Massachusetts 02453.

17. On information and belief, Defendant X-Body, Inc. is a Delaware corporation with its principal place of business at 14-A Gill St., Woburn, Massachusetts 02138.

NATURE OF THE ACTION

18. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction over this controversy under 28 U.S.C. §§ 1331 and 1338(a).

20. This Court has personal jurisdiction over Defendants because Defendants do business in New Jersey directly and through agents, including, upon information and belief, offering for sale and selling products and/or services within the state of New Jersey deriving significant revenue from such sales.

21. Venue is proper in this judicial district based on 28 U.S.C. § 1400(b) and/or 28 U.S.C. § 1391 because Defendants reside in this district.

GENERAL ALLEGATIONS

22. U.S. Patent No. 6,218,194 for ANALYTICAL METHODS AND APPARATUS EMPLOYING AN OPTICAL SENSOR DEVICE WITH REFRACTIVE INDEX MODULATION (the "'194 Patent") was duly and legally issued by the United States Patent and Trademark Office on April 7, 2001. A copy of the '194 Patent is attached hereto as **Exhibit A**.

23. Plaintiff is the exclusive licensee of the '194 Patent with the right to pursue legal action against infringers.

COUNT I

Infringement of the '194 Patent by SRU Biosystems, Inc.

24. Plaintiffs repeat and reallege Paragraphs 1 through 23 of the Complaint as if fully set forth herein.

25. SRU Biosystems, Inc. has infringed and continues to infringe, in this District and elsewhere, either literally or under the doctrine of equivalents, one or more claims of the '194 Patent either directly by importing, manufacturing, using, selling, or offering to sell the SRU Biosystems BIND® system or by contributory infringement or inducing infringement by others pursuant to 35 U.S.C. § 271.

26. Upon information and belief, SRU Biosystems, Inc. had notice of Plaintiff's rights under the '194 Patent, yet willfully and intentionally commenced and have continued infringement of the '194 Patent.

27. Plaintiff has been and will continue to be damaged by SRU Biosystems, Inc.'s continuing infringement of the '194 Patent.

COUNT II

Infringement of the '194 Patent by the Caliper Life Sciences Defendants

28. Plaintiffs repeat and reallege Paragraphs 1 through 27 of the Complaint as if fully set forth herein.

29. Defendants Caliper Life Sciences, Inc., Novascreen Biosciences Corp., Marizyme Corp., Oceanix Biosciences Co., Xenogen Corp., and Cambridge Research & Instrumentation, Inc. (collectively the "Caliper Life Sciences Defendants") have infringed and continue to infringe, either literally or under the doctrine of equivalents, one or more claims of the '194

Patent either directly or in a contributory or induced manner pursuant to 35 U.S.C. § 271(a), (b), or (c), by using the SRU Biosystems BIND® System.

30. Upon information and belief, the Caliper Life Sciences Defendants had notice of Plaintiff's rights under the '194 Patent, yet willfully and intentionally commenced and have continued infringement of the '194 Patent.

31. Plaintiff has been and will continue to be damaged by the Caliper Life Sciences Defendants' continuing infringement of the '194 Patent.

COUNT III

Infringement of the '194 Patent by Bristol-Myers Squibb Co.

32. Plaintiffs repeat and reallege Paragraphs 1 through 31 of the Complaint as if fully set forth herein.

33. Bristol-Myers Squibb Co. has infringed and continues to infringe, in this District and elsewhere, either literally or under the doctrine of equivalents, one or more claims of the '194 Patent either directly or in a contributory or induced manner pursuant to 35 U.S.C. § 271(a), (b), or (c), by using the SRU Biosystems BIND® System.

34. Plaintiff has been and will continue to be damaged by Bristol-Myers Squibb Co.'s continuing infringement of the '194 Patent.

COUNT IV

Infringement of the '194 Patent by the Elan Defendants

35. Plaintiffs repeat and reallege Paragraphs 1 through 34 of the Complaint as if fully set forth herein.

36. Defendants Elan Corp., PLC, Athena Neurosciences, Inc., Elan Pharmaceuticals, Inc., and Elan Drug Delivery, Inc. (collectively the "Elan Defendants") have infringed and

continue to infringe, either literally or under the doctrine of equivalents, one or more claims of the '194 Patent either directly or in a contributory or induced manner pursuant to 35 U.S.C. § 271(a), (b), or (c), by using the SRU Biosystems BIND® System.

37. Plaintiff has been and will continue to be damaged by the Elan Defendants' continuing infringement of the '194 Patent.

COUNT V

Infringement of the '194 Patent by the HighRes Defendants

38. Plaintiffs repeat and reallege Paragraphs 1 through 37 of the Complaint as if fully set forth herein.

39. Defendants HighRes Biosolutions, Inc. and HighRes Biosolutions International, Inc. (collectively the "HighRes Defendants") have infringed and continue to infringe, either literally or under the doctrine of equivalents, one or more claims of the '194 Patent either directly or in a contributory or induced manner pursuant to 35 U.S.C. § 271(a), (b), or (c), by using the SRU Biosystems BIND® System.

40. Plaintiff has been and will continue to be damaged by the HighRes Defendants' continuing infringement of the '194 Patent.

COUNT VI

Infringement of the '194 Patent by the X-Chem Defendants

41. Plaintiffs repeat and reallege Paragraphs 1 through 40 of the Complaint as if fully set forth herein.

42. Defendants X-Chem, Inc. and X-Body, Inc. (collectively the "X-Chem Defendants") have infringed and continue to infringe, either literally or under the doctrine of equivalents, one or more claims of the '194 Patent either directly or in a contributory or induced

manner pursuant to 35 U.S.C. § 271(a), (b), or (c), by using the SRU Biosystems BIND® System.

43. Upon information and belief, the X-Chem Defendants had notice of Plaintiff's rights under the '194 Patent, yet willfully and intentionally commenced and have continued infringement of the '194 Patent.

44. Plaintiff has been and will continue to be damaged by the X-Chem Defendants' continuing infringement of the '194 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Resonant Biotechnologies, LLC respectfully requests a judgment from the Court:

1. Declaring that the '194, Patents infringed by Defendants;
2. Awarding damages for patent infringement in favor of Plaintiff and against Defendants pursuant to 35 U.S.C. § 284 in an amount to be determined at trial, but in no event less than a reasonable royalty for infringement of the '194 Patent;
3. Awarding treble damages in favor of Plaintiff and against Defendants pursuant to 35 U.S.C. § 284 by reason of Defendants' deliberate and willful infringement of the '194 Patent;
4. Declaring this case exceptional and awarding Plaintiff interest and reasonable attorneys' fees pursuant to 35 U.S.C. § 285, as well as costs and expenses; and
5. Awarding Plaintiffs such other relief that the Court deems proper, just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff Resonant Biotechnologies, LLC hereby demands trial by jury in this case of all issues so triable.

Dated: August 5, 2011

LITE DEPALMA GREENBERG, LLC

s/ Michael E. Patunas

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LOCAL CIVIL RULE 11.2 CERTIFICATION

Plaintiff, by its attorneys, hereby certifies that the patent in controversy (the '194 Patent) is the subject of the following other action pending in the United States District Court for the District of Delaware: *Resonant Biotechnologies, LLC v. Corning, Inc., et al.*, No. 1:11-CV-303-SLR (D. Del. filed Apr. 8, 2011).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: August 5, 2011

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