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ARDENT LAW GROUP, P.C.
Stephen D. Johnson (Cal. Bar No. 55128)
Hubert H. Kuo (Cal. Bar No. 204036)
Alexander J. Chang (Cal. Bar No. 247921)
2600 Michelson Dr., Suite 1700
Irvine, CA 92612
Telephone: (949) 863-9782
Facsimile: (949) 863-9783
Email: sjohnson@ardentlawgroup.com
hkuo@ardentlawgroup.com
achang@ardentlawgroup.com

Attorneys for Plaintiffs
RONGXIANG XU, MEBO INTERNATIONAL, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO – CIVIC CENTER COURTHOUSE**

RONGXIANG XU, an individual; and
MEBO INTERNATIONAL, INC.

Plaintiffs,

vs.

SHINYA YAMANAKA; an individual; and
DOES 1-50, inclusive,

Defendants.

Case No.: **CGC - 13 - 531266**

Unlimited Civil

COMPLAINT FOR:

- (1) SLANDER OF TITLE
- (2) DEFAMATION
- (3) NEGLIGENT INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE
- (4) CALIFORNIA UNFAIR COMPETITION
[CALIFORNIA BUSINESS &
PROFESSIONS CODE§ 17200, *et seq.*];
AND
- (5) TRADE LIBEL

DEMAND FOR JURY TRIAL

Plaintiffs RONGXIANG XU and MEBO INTERNATIONAL, INC. ("Plaintiffs"), by their attorneys, as and for their Complaint against SHINYA YAMANAKA and DOES 1-50, inclusive ("Defendants") allege as follows:

THE PARTIES

1. Plaintiff, RONGXIANG XU, is, and at all times herein mentioned was, an individual with his principal residence in Los Angeles County, California. Rongxiang Xu

(hereinafter "Dr. Xu") is the inventor of "the technology of awakening/inducing human somatic cells to turn to pluripotent stem cells in situ and regenerating physiological tissue and organ" (15 United States patents), the founder of scientific method of "burns regenerative medicine and therapy" (published by Karger) which is included in the scientific system of "human body regenerative restoration science" established by Dr. Xu (published by the China Social Sciences Press). The application of the core technology of Dr. Xu's patents to the external and internal organs of the human body led to the invention and foundation of "human body regenerative restoration science" - a new applied life science system for human body regenerative, restoration and rejuvenation. Dr. Xu is a renowned life scientist and medical scientist. A list of some of Dr. Xu's achievements and his background information are attached to this complaint as Exhibit "A."

2. Plaintiff MEBO INTERNATIONAL, INC. ("MEBO") is, and at all times mentioned herein was, a corporation organized and existing under the laws of the State of California, having a principal place of business in Ontario, California. MEBO was founded and is owned by Dr. Xu to hold his intellectual property rights. Dr. Xu has authorized MEBO all rights to manage the patents and exploit the patented inventions throughout the United States. At times through this complaint, Plaintiff Dr. Xu and Plaintiff MEBO will be collectively referred to as "Plaintiffs".

3. Plaintiffs are informed and believe and thereon allege that Defendant Shinya Yamanaka ("Dr. Yamanaka") is a physician and researcher of stem cells. He currently serves as a senior investigator at the University of California, San Francisco ("UCSF") affiliated Gladstone Institutes in San Francisco, California and as a professor of anatomy at UCSF. Dr. Yamanaka is also on the editorial board of several United States scientific journals.

4. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants herein named as DOES 1-50, inclusive, are unknown to Plaintiffs. Plaintiffs therefore sue said Defendants by such fictitious names. When the true names and capacities of said Defendants have been ascertained, Plaintiffs will amend this pleading accordingly.

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5. Plaintiffs further allege that Defendants and DOES 1-50, inclusive, sued herein by fictitious names are jointly, severally and concurrently liable and responsible with the named Defendants upon the causes of action hereinafter set forth.

6. Plaintiffs are informed and believe and thereon allege that at all times mentioned herein Defendants, and DOES 1-50, inclusive, and each of them, were the agents, servants and employees of every other Defendant and the acts of each Defendant, as alleged herein, were performed within the course and scope of that agency, service or employment.

GENERAL ALLEGATIONS

7. The core patent technology of Dr. Xu's major patent can be summarized as follows: "the residual viable tissue cells (somatic cells) of deep burn wound can be induced in situ, with the nourishment of natural nutritional composition, into skin pluripotent stem cells (keratin-19 positive stem cells¹) which in turn can regenerate in situ physiological tissues to form eventually the same skin organ as surroundings" (the first claim of US 6,991,813 patent ('813) "PHYSIOLOGICAL TISSUE REPAIR AND FUNCTIONAL ORGAN REGENERATION BY CULTIVATION OF REGENERATIVE STEM CELLS IN VIVO AND IN SITU." In short, Dr. Xu patented a new scientific method of "inducing in situ human somatic cells into pluripotent stem cells and then regenerating in situ physiological tissue and organ". In addition to the '813 Patent, Dr. Xu is the owner of US Patent 7,972,631 ('631). In claim number of one of '631 patent, Dr. Xu explains his process as follows: A composition for promoting cell growth, tissue repair and/or organ regeneration in vivo comprising: beeswax at a concentration of 1%-20% by weight; a fatty acid-containing oil at a concentration of at least 10% by weight based on the total weight of the composition; and a sterol compound added to and dissolved in said oil at a concentration of at least

¹ Concept of pluripotent stem cell in human body can be described as follows: during the human embryogenesis and development to a newborn, the most primitive and early existing cells that develop into physiological tissues and organs are pluripotent stem cells, e.g., the most primitive pluripotent stem cell responsible for skin development is Keratin 19 positive stem cell (Source : Expression of epidermal keratins and filaggrin during human fetal skin development. Dale BA, et al., *The Journal of Cell Biology*, 1985; 101(4): 1257-69; Keratin 19 as a biochemical marker of skin stem cells in vivo and in vitro. Michel M, et al., *Journal of Cell Science*. 1996; 109 (Pt 5): 1017-28; Embryonic expression of the human 40-kD keratin evidence from a processed pseudogene sequence, Savtchenko ES, et al., *American Journal of Human Genetics*. 1988; 43(5): 630-7; Keratin 19 as a Stem Cell Marker In Vivo and In Vitro. Larouche D, et al., *Methods in molecular biology* 2005; 289: 103-10.

1 1% by weight based on the total weight of the composition; wherein the composition is capable of
2 activating keratin-19 expressing keratinocytes; wherein said composition does not comprise Coptis
3 chinensis Franch, huangqin, huangbai or earthworm extract.

4 8. Based on the '813 patent ¹, Dr. Xu has achieved in clinic "regenerative restoration
5 of severed human distal finger", "regenerative restoration of human scar tissue", "regenerative
6 restoration of human gastroduodenal ulcer wounds", etc., as well as the in situ regenerative
7 rejuvenation of human senescent organs, e.g., "regenerative rejuvenation of aging intestinal villi",
8 "regenerative rejuvenation of aging skin", etc. As for the technology of regenerative restoration
9 and rejuvenation of gastrointestinal organ, as long as the regenerative nutritional substance is
10 ingested orally into the stomach and intestine, human gastrointestinal villi will naturally rejuvenate
11 from aging atrophic state to revert into a younger healthier state. Additionally, it could cure and
12 vanish presently incurable diseases related to gastrointestinal aging. Gastrointestinal diseases
13 constitute major health problems worldwide, with annual medical expenses costing hundreds of
14 billions dollars. Gastrointestinal aging is in direct proportion to the age of a person, directly
15 affecting one's health, nutrition, and wellness. At the present time, the implementation of
16 gastrointestinal regenerative restoration and rejuvenation technology, which is part of the '813
17 patent, not only reduces the diseases associated with gastrointestinal aging, but it also enhances the
18 overall quality of life.

19 9. Based on Dr. Xu's achievements described in paragraphs 7 and 8, Plaintiffs believe
20 and thereon allege that Dr. Xu is the first and only person to have obtained a patent for "inducing
21 in situ human somatic cells into pluripotent stem cells and then regenerating physiological tissue
22 and organ." Since Dr. Xu is the only person who has successfully patented such process, anyone
23 claiming the ability to induce pluripotent stem cells or labeling their findings as iPSC, would be
24 infringing on Dr. Xu's intellectual property rights.

25 10. Plaintiffs are informed and believe that, on October 8, 2012, the defendant Dr.
26 Yamanaka was awarded with the Nobel Prize in Physiology or Medicine 2012. The award was
27 based upon Dr. Yamanaka's publication in which Dr. Yamanaka took skin cells out of the body
28 and transferred genes into these cells, in vitro, enabling them to have self-proclaimed similar

1 functions of stem cells, and then labeled this process as somatic cells being induced into
2 pluripotent stem cells. Dr. Yamanaka labeled his artificial cells as “induced pluripotent stem cell”
3 or “iPSC” for short. In the magazine *Cell Stem Cell*, Dr. Yamanaka was quoted stating: “In 2006,
4 we showed that stem cells with properties similar to ESCs (“embryonic stem cells”) could be
5 generated from mouse fibroblasts by simultaneously introducing four genes. We designated these
6 cells iPSCs.” (*Cell Stem Cell* 10, June 14, 2012, page 678.) (Parenthesis added).

7 11. Plaintiffs are informed and believe and thereon allege that the Dr. Yamanaka’s
8 research on artificial cells has nothing to do with stem cells. Dr. Yamanaka’s methodology is to
9 take human somatic cells out of the body and to transform them by gene transfer to generate a new
10 species of man-made cells. The intentional mislabeling of his man-made cells, not at all associated
11 with in situ human pluripotent stem cells, as “pluripotent stem cells induced from somatic cells” is
12 not only misleading, but has affected the reputation of Dr. Xu, the vendibility of his patents and
13 core technology and has costs millions in wasted research funds².

14 12. Plaintiffs are informed and believe, and thereupon allege that Dr. Yamanaka
15 intentionally mislabeled and mischaracterized his findings to usurp the public’s recognition,
16 funding and prestige. In 2001, Dr. Xu filed a series of patent applications for his scientific path of
17 “inducing in situ human somatic cells into pluripotent stem cells and then regenerating
18 physiological tissue and organ”. Soon thereafter, Dr. Xu authored and published “Burns
19 Regenerative Medicine and Therapy” (Karger), promoting the technology of regenerative
20 restoration of burns, wounds and ulcers to relieve the suffering and to save lives for patients with
21 these injuries and diseases around the world. Meanwhile, Dr. Yamanaka used his position as the
22 editor for several scientific journals, to win the 2012 Nobel prize by falsely claiming to have
23 discovered a method to induce pluripotent stem cells and calling them iPSC, which rightfully is the
24 intellectual property of Dr. Xu’s. As a result, Dr. Yamanaka, under the guise of being able to
25 create pluripotent stem cells induced from somatic cells,” and “iPSC”, continues to use his
26 research on man-made cells to deceive the public, and investors interested in research on

27 ² It was reported by some that this conduct has misled the National Institute of Health in wasting more than \$300
28 million on such “fake research.” (Source: Letter to NIH Director Francis Collins, Voice of Regenerative Medicine,
Apr. 17, 2013).

1 “pluripotent stem cells induced from somatic cells”, which enables Dr. Yamanaka to utilize his
2 unfair business practices to obtain an unfair advantage over Plaintiffs.

3 13. Plaintiffs are informed and believe, and thereupon allege that with the introduction
4 of Dr. Yamanaka’s purported findings of being able to reprogram adult cells into stem cells, even
5 then-President Bush was misled into Dr. Yamanaka’s hype. In his State of the Union address in
6 2008, the then-President alluded to Dr. Yamanaka’s man made cells as a major scientific
7 breakthrough in stem cell research since it did not involve the destruction of the cloned ESCs.
8 Consequently, this policy steered attention away from Dr. Xu’s clinically applied life-saving
9 technology, which is the only proven methodology in the world to be able to induce, in situ, human
10 somatic cells into pluripotent stem cells to ultimately regenerate physiological tissues and organs
11 as described in some of Dr. Xu’s achievements in paragraph 8 above. However, when Dr.
12 Yamanaka was awarded the Nobel Prize in Medicine in 2012 and usurped worldwide attention and
13 publicity for his purported achievements, Dr. Xu and MEBO sustained extensive economic losses
14 by not being able to fully develop their patented technology in the United States.

15 14. Plaintiffs are informed and believe and thereon allege that Dr. Yamanaka’s
16 deception has greatly impaired and affected Dr. Xu’s reputation in science, innovation, and the
17 scientific system of “human body regenerative restoration science”. Dr. Xu’s core technology
18 using natural nutritional compounds to awaken human somatic cells which are induced in situ into
19 pluripotent stem cells to regenerate in situ physiological tissue and organ, not only is able to cure
20 many presently incurable diseases, but it could also extend the present expected life expectancy for
21 many and create a better quality of life for all. However, due to Dr. Yamanaka’s deception in
22 falsely claiming that adult cells could be reprogrammed into stem cells by artificial gene transfers
23 and by falsely describing his achievements as iPSC, Dr. Xu and MEBO have sustained extensive
24 damages as they are unable to fully exploit and develop their life saving technology.

25 **FIRST CAUSE OF ACTION**

26 **(Slander of Title)**

27 **[By Plaintiffs against All Defendants]**

28 15. Plaintiffs refer to and incorporate in this Cause paragraphs 1-14 as though restated

1 herein full.

2 16. Defendant Dr. Yamanaka's statements and labeling of his discovery as "iPSC"
3 were widely published and not privileged in any manner.

4 17. Defendant Dr. Yamanaka's statements and labeling of his discovery as "iPSC"
5 were reasonably understood to concern and affect Plaintiffs and were false.

6 18. Because of the fact and circumstances known to the readers of the statements, the
7 statements have disparaged Plaintiffs' patents including:: 6,991,813, 20060292692A1 (pending),
8 20080089945A1 (pending), , 20120171298A1 (pending), 6685971, 6972195, 7074438, 7211276,
9 7399492, 7550294, 7919123, 7972631, 8093048. Specifically, Dr. Yamanaka's statements and
10 mislabeling of his discovery as "iPSC" cast doubt on whether Dr. Xu discovered and the Plaintiffs
11 own the exclusive rights to a methodology for unlocking a somatic cell's potential to revert to its
12 pluripotent state.

13 19. The statements will and have impaired the vendibility of Plaintiffs' patents.

14 **SECOND CAUSE OF ACTION**

15 **(DEFAMATION LIBEL PER QUOD)**

16 **[By Plaintiffs against All Defendants]**

17 20. Plaintiffs refer to and incorporate in this Cause paragraphs 1-14 as though restated
18 herein in full.

19 21. Dr. Yamanaka's statements and mislabeling of his discovery as "iPSC" were widely
20 published and not privileged in any manner.

21 22. Dr. Yamanaka's statements and mislabeling of his discovery as "iPSC" were
22 reasonably understood to concern Dr. Xu and his company Mebo and were false.

23 23. Because of the facts and circumstances known to the readers of Dr. Yamanaka's
24 statements, they tended to injure Plaintiffs in their occupation and expose them to contempt,
25 ridicule and shame. The statements have also discouraged others from associating or dealing with
26 them.

27 24. The Defendants failed to use reasonable care to determine the truth or falsity of the
28 statements.

25. The Plaintiffs suffered harm to their business, profession and occupation including money spent as a result of the statements.

26. As a direct and proximate result of Defendants' act described above, Plaintiffs have and will continue to suffer damages to their person, business, reputation and good will, and the loss of business opportunities that Plaintiffs would have made but for Defendants' acts. The amount of these damages will be proven at trial.

THIRD CAUSE OF ACTION

(Negligent Interference with Prospective Economic Advantage)

[By Plaintiffs against All Defendants]

1. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1-26 as if set forth fully herein.

2. Plaintiffs have several prospective business relationships with institutional investors and pharmaceutical companies. The adverse effect described herein to Plaintiffs' businesses was clearly foreseeable to the Defendants. Moreover, public policy supports a duty of care for scientific publishers to exercise due care when reporting on scientific findings that impact the health and wellbeing of the public.

3. Defendants wrongfully interfered with Plaintiffs' relationship with the institutional investors and pharmaceutical companies by publishing a misleading article under the guise of Plaintiffs' core technologies.

4. As a direct and proximate result of Defendants' act described above, Plaintiffs have and will continue to suffer damages to their person, business, reputation and good will, and the loss of business opportunities that Plaintiffs would have made but for Defendants' acts. The amount of these damages will be proven at trial.

FOURTH CAUSE OF ACTION

**(California Common Law Unfair Competition, California Business & Professions Code
§17200 et seq.)**

[By Plaintiffs against All Defendants)

5. Plaintiffs refer to and incorporate in this Cause paragraphs 1-30 above, as though

1 restated herein in full.

2 6. The Court has jurisdiction over this Cause pursuant to 28 U.S.C. § 1367.

3 7. By the acts complained of herein, the Defendants have engaged in unfair
4 competition under Section 17200 of the Business and Professions Code of the State of California.

5 8. Plaintiffs are informed and believe and thereon allege Defendants have engaged in
6 the conduct alleged in these claims knowingly and willfully, or alternatively, did not meet their
7 duty of reasonable care.

8 9. Defendants' actions, as alleged herein, were and are likely to deceive the
9 consuming public and therefore constitute unfair and fraudulent business practices in violation of
10 15 U.S.C. §1125(a).

11 10. Defendants' unfair business practices described above present a continuing threat to
12 members of the public in that they are likely to be deceived as to veracity of Dr. Yamanaka's
13 research and the inherent risk of cancer.

14 11. Plaintiffs are informed and believe and thereon allege that Defendants' acts of
15 unfair competition have resulted in substantial profits for the Defendants in an amount to be
16 proven at trial. Defendants' acts of unfair competition have also resulted in damages to Plaintiffs
17 caused by diversion of investors and lost profits. The exact amount of damages will be proven at
18 trial.

19 12. Plaintiff has also incurred costs and attorneys' fees to bring this action.

20 13. Defendants' conduct has caused and will continue to cause irreparable injury to
21 Plaintiffs unless permanently enjoined.

22 **FIFTH CAUSE OF ACTION**

23 **(Trade Libel)**

24 **[By Plaintiffs Against All Defendants]**

25 14. Plaintiffs refer to and incorporate in this Cause paragraphs 1-39 above, as though
26 restated herein in full.

27 15. Defendants' Article was widely published and not privileged in any manner.

28 16. Defendants' Article was reasonably understood to concern Plaintiffs' core

1 technology and was disparaging and false.

2 17. Because of the fact and circumstances known to the readers of the Article, it tended
3 to injure Plaintiffs in their business and expose them to contempt, ridicule and shame. The Article
4 also discouraged others from associating or dealing with them.

5 18. The Defendants failed to use reasonable care to determine the truth or falsity of the
6 Article.

7 19. Plaintiffs suffered harm to their business, profession and occupation including
8 money spent as a result of the Article.

9 20. The Article has falsely tainted and damaged Plaintiffs' achievements in the eyes of
10 the scientific community, business, potential investors. In addition, although Dr. Xu was the
11 keynote speaker for several major international conferences, Dr. Xu will be less likely to be
12 selected to promote his science.

13 21. The Article was a substantial factor in causing Plaintiffs' harm.

14
15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs respectfully pray for judgment as follows:

17 **ALL COUNTS**

18 1. That Defendants' and their principals, agents, representatives, servants and
19 employees and all persons in active concert or participation with them be required to declare or
20 enjoined from the following:

- 21 a. Required to declare that the implementation of Dr. Yamanaka's research will
22 lead to cancer cells of new species;
23 b. Enjoined from using the terms: "induction" "induce" or "iPS" in conjunction
24 with Dr. Yamanaka's research.
25 c. From engaging in unfair competition by making misleading statements
26 regarding Dr. Yamanaka's research.
27 d. For general and special damages in an amount to be proven at trial;
28 e. Withdraw the articles in issue.

2. Such other and further relief as this Court may deem appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury.

Respectfully Submitted,

DATED: May 3, 2013

ARDENT LAW GROUP, P.C.

By



Stephen D. Johnson, Esq.

Hubert H. Kuo, Esq.

Alexander J. Chang, Esq.

Attorneys for Plaintiffs

RONGXIANG XU and MEBO INTERNATIONAL,
INC.

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EXHIBIT "A"

Exhibit "A" Background of Dr. Rongxiang Xu

Research and Achievement

Rongxiang Xu, in his study of burn treatment in 1984, discovered "regenerative cell" which was confirmed by subsequent studies to be keratin-19 positive stem cell (pluripotent stem cell). Dr. Xu accomplished the clinical systematic study of "in situ transformation of pluripotent stem cell from tissue cell (somatic cell), and in situ regeneration of new skin organ by the pluripotent stem cell" at deep burn wound site, and established the procedure of in situ regeneration of human tissue and organ by tissue cells. Based on this procedure, Dr. Xu achieved the in situ regenerative restoration and regenerative rejuvenation in varied tissues and organs. For instance, new skin was regenerated in situ without causing disability in the case of extensive deep burns; diabetic ulcers and surface body ulcers were healed via tissue regeneration; gastric ulcer was healed without scarring; severed distant finger regenerated new finger; skin scar was removed via regeneration; aged skin was turned back to young skin via regenerative restoration; aged and atrophic gastrointestinal villi of 60-year-old were restored to the state of 25-year-old; and so on. The new scientific system now entitled "human body regenerative restoration science" was then established by Dr. Xu. The accomplishment of clinical application of these core techniques consisted of the core contents of "human body regenerative restoration science" and has benefited people in 73 countries, e.g., burns regenerative therapy only, has helped 20 million burn victims to restore normal skin. The all-inclusive technology of "human body regenerative restoration science" will soon benefit all the human beings.

Media Reports and Exclusive Interview

Newsweek, May 7, 1990, "A simpler way to save lives", reported the clinical study and practice of Dr. Xu. In this article, it was stated that "But if a new Chinese treatment fulfills its initial promise, much of modern burn therapy could be rendered instantly obsolete."

In 2003, Swedish Ministry of Education and Science and Sveriges Television had an exclusive interview with Dr. Xu.

International Conference and Lectures

In 2002, world conference on stem cell and regenerative medicine held in San Diego, USA, Rongxiang Xu was invited to be the key speaker to report the core technology and its application of human body regenerative restoration science.

In 2004, Dr. Xu gave a lecture on tissue regeneration under the special invitation of Stanford University.

In September 2012, the 17th world burns conference in the United Kingdom, Dr Xu's skin

regeneration medicine became one of the most discussed topics among international experts and scientists attending the meeting.

Publications and Patents

Burns Regenerative Medicine and Therapy, Rongxiang Xu, 2004, Karger, Switzerland
In January 2004, Switzerland KARGER publisher (renowned publisher specializing in publications of medicine and physiology , also the publisher of many Nobel laureates' first books) published Dr. Xu's monograph *Burns regenerative medicine and therapy*, the comment on the back cover said that "Further, he demonstrates that ordinary cells can differentiate into varied organ tissues ..." and "Burns specialists will learn of the new gold standard in burns treatment, and cell biologists of the potential of ordinary cells."

Human Body Regenerative Restoration Science, Rongxiang Xu, 2009, Chinese social science press

Patents: US20030021850 , US20060292692 , US20080131528 , US20080089945 ,
US20120171298 , US6991813 , US8093048 , US7972631 , US7919123 , US7550294 ,
US7399492 , US7211276 , US7074438 , US6972195 , US6685971 ; EP1439847, EP0763362
 , EP0606786 , EP1406643 , EP2362777 ; CA 2464152 ; Japanese patents 4464133, 3126583 ,
3065530 ; Chinese patents ZL02102890.7, ZL200610000381.9, ZL200610093527.9,
ZL200510123331.5, ZL02120138.2, ZL02105541.6, ZL95116651.4 , ZL93100276.1.