

From: Kerry.Taylor
Sent: Monday, September 08, 2014 6:16 PM
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Cc: BoxKyoto@knobbe.com
Subject: IPR2014-01286

Counsel:

Patent Owner has noticed that the Corrected Petition (Paper 6) contains revisions and additions to the substantive argument in the section bridging pages 18-19. As indicated by the Board in the Notice of Filing Date Accorded to Petition (Paper 4), no substantive changes may be made in the corrected petition. These changes to the section bridging pages 18-19 alter Petitioner's arguments and are unrelated to any objections raised by the Board in Paper 4. Thus, these changes are improper. Patent Owner requests that Petitioner promptly arrange a teleconference with the Board to seek authorization to file a new corrected petition restoring the substantive argument in this section to the text presented in the original Petition (Paper 1).

As a further matter, we understand that Petitioner BioGatekeeper, Inc., was formed six (6) days before the IPR Petition was filed, and that the sole officer and employee of BioGatekeeper is a Mr. Jonathan Zhu (see attached). Patent Owner is unfamiliar with the entity of BioGatekeeper and the person of Mr. Zhu. Moreover, given the timing of BioGatekeeper's incorporation, it is readily apparent that this entity's sole purpose is to conceal the real parties-in-interest in this IPR proceeding.

Patent Owner Kyoto University ("Kyoto") is aware of the ongoing litigation between Plaintiffs Rongxiang Xu and MEBO International, Inc., and Defendant Dr. Shinya Yamanaka regarding the pluripotent stem cells of Dr. Yamanaka's patent at issue in this IPR proceeding (see attached). Kyoto is also aware of the litigation between Plaintiffs Rongxiang Xu and MEBO International, Inc., and Defendant the Nobel Committee regarding Dr. Yamanaka's award of the Nobel Prize for his pluripotent stem cell research (see attached). There can be little doubt that Rongxiang Xu and MEBO International, and perhaps others, are real parties-in-interest in this IPR proceeding. Accordingly, the IPR Petition is fundamentally defective for failing to identify all of the real parties-in-interest, in accordance with 35 U.S.C. § 312(a)(2) and 37 C.F.R. § 42.8(b)(1).

Kyoto requests that the Petitioner promptly identify the additional real parties-in-interest in this IPR proceeding, and seek authorization to include in the corrected Petition the complete identification of the real parties-in-interest. Provided that the Petitioner voluntarily provides this statutorily required information to the Board, Kyoto will not oppose the filing of the corrected Petition to correct this defect, provided that the Board accords a new filing date for the corrected Petition.

In the event that the Petitioner elects not to identify the additional real parties-in-interest, Kyoto requests that the Petitioner voluntarily provide the following limited discovery information:

Definitions:

The term "relationship" means "relationship" as that term is used by the Board in 77 Fed. Reg. at 48,760.

The phrase "financially controlling interest" means "financially controlling interest" as that phrase is used by the Board in 77 Fed. Reg. at 48,617.

- Please provide a detailed description of Jonathan Zhu's professional employment.

Kyoto Exhibit 2017 <i>BioGatekeeper v. Kyoto University</i> IPR2014-01286

- Please provide a detailed description of the business of BioGatekeeper, Inc., including the principle place of business.
 - Please identify any relationship between Jonathan Zhu and Rongxiang Xu.
 - Please identify any relationship between BioGatekeeper, Inc. and Rongxiang Xu.
 - Please identify any relationship between Jonathan Zhu and MEBO International, Inc.
 - Please identify any relationship between BioGatekeeper, Inc. and MEBO International, Inc.
 - Please identify any and all entities with a "financially controlling interest" in BioGatekeeper, Inc.
- Please identify any and all parties that funded, directed, and/or controlled the incorporation of BioGatekeeper, Inc., other than Jonathan Zhu
- Please identify any and all parties that funded, directed, and/or controlled the preparation of the Petition in this IPR proceeding, other than BioGatekeeper, Inc., and Jonathan Zhu

If the Petitioner elects to not voluntarily provide this information to Kyoto, then please let us know when you would be available for a teleconference with the Board to discuss this matter. In that conversation, Kyoto will request authorization from the Board to obtain the discovery information identified above. Further, Kyoto will seek authorization from the Board to file a motion to terminate this IPR proceeding because of the Petitioner's purposeful concealment of the real party-in-interest in this proceeding.

We look forward to your prompt response.

Kerry Taylor

Partner

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NV Secretary of State filings - BioGatekeeper Inc.pdf (187.3KB)
Lawsuit Against Nobel Assembly 12-3-2012.pdf (1.2MB)
lawsuit_yamanaka_051313.pdf (558.8KB)

(2.0MB)

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