

Patent Litigation between Innogenetics and Abbott – March 12, 2007

Innogenetics N.V., Ghent, Belgium, brought a patent infringement suit against Abbott in September 2005 covering the U.S. sale of hepatitis C virus (HCV) genotyping products. Innogenetics did not name Celera as a party in this lawsuit, but Celera has an interest in these products and in the outcome of the litigation because the products are manufactured by Celera and sold through its alliance with Abbott. In September 2006, a jury in Madison, Wisconsin found that the sale of these products willfully infringed a U.S. patent owned by Innogenetics. In January 2007, the U.S. District Court for the Western District of Wisconsin ruled in favor of Innogenetics' request for a permanent injunction, and as such, ordered Abbott to withdraw its products from the market. The court also reversed the jury verdict of willful infringement and ruled that Abbott did not willfully infringe Innogenetics' patent and denied Innogenetics' request for enhanced damages and attorneys' fees. Abbott has informed Celera that it will appeal the judgment as both Abbott and Celera believe that Innogenetics' patent is invalid and that the alliance's HCV genotyping ASRs do not infringe Innogenetics' patent. On March 8, 2007, the Court of Appeals for the Federal Circuit issued an order denying Abbott's motion for a stay of the permanent injunction during the appeal process.