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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

INFUTURIA GLOBAL LTD.,

No. C 08-4871 SBA

Plaintiff,

**ORDER**

v.

**[Docket No. 24, 37, 63]**

SEQUUS PHARMACEUTICALS, INC.  
et al.,

Defendants.

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Before the Court are the following motions:

1. Plaintiff's Motion to Remand [Docket No. 37];
2. Defendant Sequus Pharmaceuticals, Inc.'s Motion to Dismiss or More Definite Statement [Docket No. 24].
3. Defendants The Hebrew University's and Yechezkel Barenholz's *Ex Parte* Application to Stay or Continue the Proceedings Until Defendants' Motion to Stay Proceedings is Heard [Docket No. 63]

Having read and considered the argument presented by the parties in the papers submitted to the Court, the Court DENIES the motion to remand, GRANTS WITH LEAVE TO AMEND the motion to dismiss or for more definite statement and DENIES AS MOOT the Ex Parte Application to Stay or Continue the Proceedings Until Defendants' Motion to Stay Proceedings is Heard.

**BACKGROUND**

**I. Factual Background**

Plaintiff Infuturia Global, Ltd. ("Infuturia") is a British Virgin Islands corporation engaged in the business of developing and marketing liposome related pharmaceutical products.

Defendant Sequus Pharmaceuticals, Inc. ("Sequus") is a Delaware corporation with headquarters in Menlo Park, California. Sequus makes lipid-based drugs, one of which is the cancer

1 drug Doxil.

2 Defendant The Hebrew University of Jerusalem ("Hebrew University"), is an Israeli  
3 corporation and Yechezkel Barenholz ("Barenholz") (collectively "Israeli Defendants") is an Israeli  
4 citizen residing in Israel. Professor Barenholz is a Hebrew University employee, and engaged in  
5 research regarding liposomes. Professor Barenholz has done research for both Infuturia and Sequus.

6  
7 On March 19, 1990, Infuturia entered into a written contract entitled "License Agreement"  
8 ("Agreement") with Yissum Research and Development Company of the Hebrew University of  
9 Jerusalem ("Yissum"). Yissum is not a party to this action. Yissum is a wholly-owned subsidiary of  
10 the Hebrew University and exists to protect and commercialize the intellectual property that is  
11 created by the faculty and students of Hebrew University in the course of their various research  
12 projects.

13 The Agreement establishes rights and obligations concerning Patent No. 4,812,314 (the "314  
14 Patent"). Infuturia received "an exclusive worldwide license to develop, market, use, manufacture,  
15 exploit and commercialize the Patent, Compounds, Products, and Improvements subject to terms and  
16 conditions" of the Agreement. [Agreement ¶ 2.01 and App. A]. The '314 patent is a chemical  
17 compound that provides a method or process for lipid transport in the blood from the organs and  
18 tissues to liposomes, a purpose of which is the quick transport of cholesterol to the liver. [Original  
19 Complaint ¶ 6].

20 The Agreement contains a provision that obligates the parties to arbitrate in Israel "any  
21 dispute or difference of opinion on which the parties hereto cannot reach agreement and which is  
22 connected in any way to the implementation of" the Agreement. [Agreement ¶ 17].

## 23 **II. Procedural History**

24 On October 26, 1998, Infuturia filed a Complaint ("Original Complaint") alleging that  
25 Defendants tortiously interfered with the Agreement between Infuturia and Yissum. Briefly,  
26 Infuturia alleges that Yissum, through Professor Bahrenholz, had a preexisting relationship with  
27 Sequus to develop and market a liposome that could circulate in the human body for a long period of

1 time (the “Liposome Project”) and that discoveries made pursuant to the License Agreement were  
2 not reported to Infuturia but were licensed or assigned to Sequus instead, thereby breaching  
3 Infuturia’s exclusive contractual rights. [First Amended Complaint ¶¶ 9, 45-47].

4         Shortly after filing suit, non-party Yissum petitioned for an order compelling arbitration in  
5 Israel, and obtained a stay of the litigation pending the outcome of arbitration in Israel.  
6 Yissum and Infuturia brought claims against each other in arbitration. Yissum claimed that Infuturia  
7 failed to pay \$125,00 under the Third Addendum of the Agreement and that the failure to pay  
8 entitled it to cancellation of the contract. Infuturia counterclaimed for \$45 million, alleging that  
9 during the laboratory trials of the ‘314 patent in Milan, Italy, a sensational discovery was made that  
10 was not reported to Infuturia and instead formed the basis for the secret development of the Sequus  
11 drug, Doxil.

12         On May 21, 2006, the arbitrator issued his decision (“Arbitral Award”). The arbitrator  
13 granted Yissum’s claim in part, ordering Infuturia to pay Yissum \$32,445, but denying that  
14 cancellation of the Agreement was proper. [Docket No. 83; Israeli Defendants’ Request for Judicial  
15 Notice, Ex. C, Arbitral Award ¶¶ 15-22, 43 ]. The arbitrator rejected Infuturia’s crossclaim in its  
16 entirety. The arbitrator found that the Doxil liposome was invented and developed two years earlier,  
17 before the Milan Trials, and that the two liposomes do not share any similarities. The arbitrator also  
18 found there was no evidence that Yissum and Professor Barenholz misled Infuturia with regard to  
19 the nature and results of the laboratory trials. [Arbitral Award, ¶¶ 27-43]. An Israeli court confirmed  
20 the arbitral award on September 3, 2006, pursuant to the parties’ joint petition.

21         Two years after the Arbitral Award, Infuturia obtained an order lifting the stay of the state  
22 court litigation, and on August 15, 2008, filed its First Amended Complaint (“FAC”). The FAC  
23 alleges the following claims: tortious interference with the Agreement (Counts 1-3); civil  
24 conspiracy to interfere with Infuturia’s contractual rights under the Agreement (Counts 4-6); breach  
25 of fiduciary duty owed by the Israeli Defendants by virtue of their relationship with Yissum (Counts  
26 10- 11); conversion of Infuturia’s contract rights (Counts 7-9); and fraudulent concealment by all  
27 defendants of the fact that Barenholz helped other manufacturers to create products that belonged to  
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1 Infuturia under the Agreement (Counts 12- 14). In addition to filing the FAC, Plaintiff sought a  
2 Petition to Confirm the Arbitration Award.

3 Defendants removed the action to federal court on October 24, 2008. According to the  
4 defendants, many of the factual allegations in the FAC are substantially the same as those asserted in  
5 the counterclaim that was denied by the Israeli arbitrator. In large part, both actions allege that  
6 Professor Barenholz, the Hebrew University and Sequus conspired to profit, and indeed profited,  
7 from research that fell within the scope of the original Agreement and second and third addenda to  
8 the Agreement, specifically the compounds mentioned and described in the ‘314 patent. [FAC ¶¶ 45  
9 et seq.].

## 10 LEGAL STANDARD

### 11 **I. Motion to Dismiss and for More Definite Statement**

12 Under Federal Rule of Civil Procedure 12(b)(6), a claim may be dismissed if it does not  
13 “state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). When considering a  
14 motion to dismiss under Rule 12(b)(6), the plaintiff’s complaint is liberally construed and all well-  
15 pleaded facts are taken as true. *Syverson v. IBM Corp.*, 472 F.3d 1072, 1075 (9th Cir. 2007). A  
16 complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the  
17 plaintiff can prove no set of facts in support of its claim which would entitle it to relief. *Conley v.*  
18 *Gibson*, 355 U.S. 41, 45-46 (1957). A court may grant the plaintiff leave to amend, and leave to  
19 amend is generally denied only when it is clear that the deficiencies of the complaint cannot be  
20 cured by amendment. *DeSoto v. Yellow Freight Sys., Inc.* 957 F.2d 655, 658 (9<sup>th</sup> Cir. 1992).

21 Conclusory allegations of law, unwarranted deductions of fact, or unreasonable inferences,  
22 however, are insufficient to defeat a motion to dismiss. *See Fields v. Legacy Health Sys.*, 413 F.3d  
23 943, 950 n.5 (9th Cir. 2005); *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001).

24 Rule 12(e) of the Federal Rules of Civil Procedure provides, in pertinent part, that “[i]f a  
25 pleading to which a responsive pleading is permitted is so vague or ambiguous that a party  
26 cannot reasonably be required to frame a responsive pleading, the party may move for a more  
27 definite statement before interposing a responsive pleading.” A motion for more definite statement

1 should be granted where the complaint fails to provide a “short and plain statement” of the claim  
2 showing that the plaintiff is entitled to relief. Fed. R. Civ. P. 8(a)(2). The Court has wide discretion  
3 to direct a plaintiff to provide, “by amendment to the complaint or by affidavits, further  
4 particularized allegations of fact.” *Warth v. Seldin*, 422 U.S. 490, 501-2 (1975).

## 5 **II. Removal Jurisdiction**

6 Removal of an action from state court is proper where the federal court has original  
7 jurisdiction over the plaintiff's claim. 28 U.S.C. §§ 1131, 1441. District courts have original  
8 jurisdiction over an action falling under the Convention on the Recognition and Enforcement of  
9 Foreign Arbitral Awards (the "New York Convention"), regardless of the amount in controversy. 9  
10 U.S.C. § 203.

11 Section 202 defines an agreement or award falling under the Convention:

12 An arbitration agreement or arbitral award arising out of a legal relationship,  
13 whether contractual or not, which is considered as commercial, including a  
14 transaction, contract, or agreement described in section 2 of this title, falls  
15 under the Convention. An agreement or award arising out of such a  
16 relationship which is entirely between citizens of the United States shall be  
17 deemed not to fall under the Convention unless that relationship involves  
18 property located abroad, envisages performance or enforcement abroad, or has  
19 some other reasonable relation with one or more foreign states. For the  
20 purpose of this section a corporation is a citizen of the United States if it is  
21 incorporated or has its principal place of business in the United States.

22 9 U.S.C. § 202.

23 Section 205 of the New York Convention further provides for the removal of such cases:

24 Where the subject matter of an action or proceeding pending in a State court  
25 *relates to* an arbitration agreement or award *falling under* the Convention, the  
26 defendant or the defendants may, at any time before the trial thereof, remove  
27 such action or proceeding to the district court of the United States for the  
28 district and division embracing the place where the action or proceeding is  
29 pending. The procedure for removal of causes otherwise provided by law shall  
30 apply, except that the ground for removal provided in this section need not  
31 appear on the face of the complaint but may be shown in the petition for  
32 removal.

33 9 U.S.C. § 205 (emphasis supplied).

34 Put in other terms, the removing party has the burden to show both that (1) an agreement  
35 exists that "falls under" the New York Convention, and (2) the dispute "relates to" the arbitration  
36 agreement. *Beiser v. Weyler*, 284 F.3d 665, 666 (5th Cir. 2002).

1 It is well-settled that the §1441 removal statute is strictly construed against removal  
2 jurisdiction. *Hofler v. Aetna U.S. Healthcare of Cal., Inc.*, 296 F.3d 764, 768 (9th Cir. 2002).  
3 However, Congress created special removal rights for New York Convention Act cases and 9 U.S.C.  
4 § 205 "is one of the broadest removal provisions . . . in the statute books." *Acosta v. Master*  
5 *Maintenance and Const. Inc.*, 452 F.3d 373, 377 (5th Cir. 2006).

6 The burden of establishing federal jurisdiction falls to the party invoking the removal statute.  
7 *California ex rel. Lockyer v. Dynegy, Inc.*, 375 F.3d 831, 838 (9th Cir. 2004).

8 A federal court may remand a case back to state court for lack of subject matter jurisdiction.  
9 28 U.S.C § 1447(c).

## 10 DISCUSSION

### 11 **I. Motion to Dismiss or for More Definite Statement**

12 Sequus argues that the FAC, with respect to Counts 3, 6, 9 and 14, contains conclusory  
13 allegations of wrongdoing which are insufficient to state a claim upon which relief can be granted.

14 With respect to Count 3 for tortious interference, Sequus contends Infuturia has not alleged  
15 facts showing that Sequus knew of, intended to disrupt, or did disrupt Infuturia's contractual  
16 relationship. With respect to Count 9 for civil conspiracy, Sequus argues that Infuturia's failure to  
17 adequately plead the underlying claim for tortious interference fails to state a claim of conspiracy.  
18 *See Entm't Research Group, Inc. v. Genesis Creative Group, Inc.*, 122 F.3d 1211, 1228 (9th Cir.  
19 1997) (noting that to have a valid conspiracy cause of action, the plaintiff must have another tort  
20 upon which to base its civil conspiracy claim). Additionally, the FAC does not allege facts showing  
21 the formation or operation of a conspiracy.

22 Count 6 of the FAC alleges conversion, defined by California law as "any act of dominion  
23 wrongfully asserted over another's personal property in denial of or inconsistent with his rights  
24 therein. *In re. Bailey*, 197 F.3d 997 (9th Cir. 1999). Sequus contends Infuturia has failed to plead  
25 facts establishing the ownership of property capable of being converted under California law.  
26 Infuturia argues that the property right that is subject to a claim of conversion is the "exclusive  
27 worldwide" right, under the Agreement, "to develop, market, use, manufacture, exploit and  
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1 commercialize” the ‘314 Patent, as well as all “Compounds, Products, and Improvements.” The  
2 right allegedly includes an exclusive proprietary right to *other* several liposome-related  
3 pharmaceutical products (e.g., the ‘308 Patent, ‘311 Patent, ‘514 Patent, ‘715 Patent, ‘ 353 Patent,  
4 ‘881 Patent, ‘002 Patent, ‘554 Patent and ‘771 Patent). The Court agrees with Infuturia that  
5 California law recognizes conversion of intangibles, such as domain names, intangible contract  
6 rights, and patent rights. *Kremen v. Cohen*, 325 F.3d 1035 (9th Cir.2003).

7 Finally, Count 14 alleges fraudulent concealment. Sequus argues the claim should be  
8 dismissed because Plaintiff has failed to allege with particularity, as required by FRCP 9(b), the  
9 following elements: (1) that Sequus had a duty to disclose information to Infuturia; (2) that Sequus  
10 intentionally concealed or suppressed a fact intending to defraud Infuturia; and (3) that Infuturia was  
11 damaged as a result of the alleged suppression or concealment of a fact.

12 Plaintiff contends that it is capable of curing any deficiencies in its complaint by setting forth  
13 facts to satisfy the elements of every Count alleged against Sequus in its FAC. The Court agrees  
14 that, in light of the arguments made by Plaintiff in Sections I and II of its opposition brief, a  
15 Rule12(e) Motion for More Definite Statement is the appropriate remedy for curing the specific  
16 inadequacies identified by Sequus in its Motion to Dismiss. *Bowles v. Wheeler*, 152 F.2d 34 (9th Cir.  
17 1945) (indefiniteness of complaint is not ground for dismissal, and if defendant needs additional  
18 information to enable him to answer, procedure provided by rules is motion for more definite  
19 statement).

20 Accordingly, the Court GRANTS Defendant’s motion to provide a more definite statement  
21 and Plaintiff is ORDERED to:

22 (1) identify in the Second Amended Complaint the factual basis to support Infuturia's claim  
23 in Count 3 that Sequus tortiously interfered with Infuturia’s contract with Yissum; specifically to  
24 allege facts to show that Sequus knew of, intended to disrupt, or did disrupt Infuturia's contractual  
25 relationship;

26 (2) identify in the Second Amended Complaint the factual basis to support Infuturia's claim  
27 in Count 6 that Sequus formed or operated a conspiracy to tortiously interfere with Infuturia’s  
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1 contract with Yissum;

2 (3) identify in the Second Amended Complaint the Sequus products - particular compounds,  
3 pharmaceutical compositions, improvements, variations, developments, inventions, etc. - that  
4 allegedly fall within the scope of Infuturia's purported contractual rights relating to the '314 Patent,  
5 and whether Infuturia's claims include or exclude the Doxil-related claims at the heart of Infuturia's  
6 original Complaint, for the purposes of providing a factual basis for Infuturia's claim of conversion  
7 in Count 9; and (4) allege with particularity, as required by FRCP 9(b), the following elements of  
8 Infuturia's claim in Count 14 for fraudulent concealment: (1) that Sequus had a duty to disclose  
9 information to Infuturia and the basis of that duty; (2) that Sequus intentionally concealed or  
10 suppressed a fact intending to defraud Infuturia; and (3) that Infuturia was damaged as a result of the  
11 alleged suppression or concealment of a fact.

## 12 **II. Motion to Remand**

13 Infuturia requests the Court remand the action to state court because the removing parties  
14 improperly base the removal on an arbitration agreement and arbitral award to which they are not  
15 parties. The defendants contend that removal was proper for two reasons: (1) because the subject  
16 matter of the plaintiff's claims against them is "related to" the foreign arbitration agreement; and (2)  
17 because the subject matter of the case "relates to" the Israeli arbitral award, which they intend to  
18 raise in support of their affirmative defenses of collateral estoppel and res judicata.

19 Infuturia raises the threshold jurisdictional issue of whether non-parties to an arbitration  
20 agreement or arbitral award are entitled to removal under 9 U.S.C. § 205. There is no precedent in  
21 the Ninth Circuit that addresses the issue directly. The Court is disinclined to apply the narrow  
22 holding in *AtGames Holdings v. Radica Games*, 394 F.Supp.2d 1252 (C.D. Cal. 2005) and  
23 *GlobalSantaFe Drilling v. Ins. Co. of the State of Pa.*, 2006 WL 13090 (N.D. Cal. 2006). The New  
24 York Convention itself is silent.

25 One reason the *AtGames* holding is not persuasive is that the Court simply stated that the  
26 plain meaning of the statute makes it "clear that a state court action is removable if (1) the parties to  
27 the action have entered into an arbitration agreement, and (2) the action relates to that agreement."



1 Yet nowhere in the New York Convention is the requirement that a removing party be a signatory to  
2 the contract. Without some analysis or legal authority to support that particular interpretation of the  
3 statute, this Court is not inclined to adopt it as a rule.

4 In addition, the court in *GlobalSantaFe* found that even though the removing party had been  
5 a signatory to the arbitration agreement, once the removing defendant had been dismissed, the  
6 defendant who had not been a party to the arbitration agreement had no basis for removal. Not only  
7 had that particular defendant not entered into an arbitration agreement with the plaintiff, but its  
8 cross-claims were not deemed “related to” the arbitration agreement. The *GlobalSantaFe* Court  
9 found that remand was consistent with Supreme Court precedent that non-parties to an arbitration  
10 agreement cannot be compelled to arbitrate their claims (*see AT & T Techs, Inc. v. Communications*  
11 *Workers of Am.*, 475 U.S. 643, 647 (1986); that is, in the absence of an alternate theory such as  
12 agency or equitable estoppel.

13 Because there is no provision in Section 205 that precludes a non-signatory to an arbitration  
14 agreement from removing an action (the *AtGames* holding), the Court will analyze whether the  
15 removing defendant has any right to assert the arbitration clause or arbitral award if it “falls under”  
16 the New York Convention and “relates to” the subject matter of the litigation. *Beiser v. Weyler*, 284  
17 F.3d 665, 669 (5<sup>th</sup> Cir. 2002).

18 **A. The License Agreement Falls Under the New York Convention.**

19 There is no dispute that the Agreement falls under the New York Convention as required by  
20 9 U.S.C. § 205. There is both an arbitration agreement and an arbitral award that “arises out of a  
21 legal relationship,” in this case contractual, that is “commercial.” The parties to the Agreement are  
22 foreign corporations, which brings the Agreement squarely within the New York Convention,  
23 Article I. Yissum is an Israeli corporation and Infutura is organized under the law of the British  
24 Virgin Islands and has corporate headquarters in Switzerland. Israel, the site of the arbitration, is a  
25 signatory to the New York Convention.

26 **B. The Subject Matter of the Litigation Relates to the Arbitration Agreement or**  
27 **Arbitral Award.**

1           The leading case interpreting the “relates to” requirement in Section 205 is *Beiser v. Weyler*.  
2 In *Beiser*, the Court explained that “relates to” as found in Section 205 sweeps broadly, and  
3 “whenever an arbitration agreement falling under the Convention could conceivably affect the  
4 outcome of the plaintiff’s case, the agreement ‘relates to’ the plaintiff’s suit.” 284 F.3d 665, 669 (5<sup>th</sup>  
5 Cir. 2002); *see also Acosta v. Master Maintenance and Construction, Inc.*, 452 F.3d 373, 376 (5<sup>th</sup>  
6 Cir. 2006). The standard is deferential, but the arbitration clause must provide a defense, or the case  
7 be remanded if no other basis for federal jurisdiction exists. *Id.* at 676. *See also, Hawkins v.*  
8 *KPMG*, 423 F.Supp.2d 1038, 1048-1049 (N.D.Cal. 2006)(applying *Beiser* and finding that because  
9 there was a reasonable possibility that defendant would be able to assert the arbitration clause  
10 against the plaintiff under an equitable estoppel theory, the clause was related to the lawsuit);  
11 *Certain Underwriters at Lloyd’s v. Warrantech Corp.* 2004 WL 5307516 (N.D. Tex. 2004)(under  
12 *Beiser*, so long as the affirmative defenses of collateral estoppel and res judicata based on certain  
13 adjudications in the arbitration award were not facially frivolous, removal was proper).

14           The Israeli Defendants argue that because the complaint seeks declaratory relief regarding  
15 the effect of the Israeli arbitral award (FAC ¶ 135), and because they intend to argue that the  
16 preclusive effect of the arbitral award gives rise to defenses of collateral estoppel and res judicata,  
17 that this Court has federal jurisdiction under Section 205 to decide the merits of the defenses  
18 because both the subject matter of the complaint and the defenses “relate to” the arbitration  
19 agreement. [Israeli Defs.’ Motion 22-24].

20           The general allegations of the FAC detail a relationship between Barenholz and the Hebrew  
21 University to conduct medical research, including the development and manufacture of liposome-  
22 related drugs. [FAC ¶ 7-11]. The Israeli Defendants are alleged to have worked extensively with  
23 Sequus since the mid-1980s on the development and manufacture of liposome-related drugs. In fact,  
24 the Israeli Defendants were allegedly involved in research to discover and market a liposome that  
25 could circulate in the human body for a long period of time. The research is referred to as the  
26 Lipsome Project, and the Israeli Defendants obtained Patent ‘314 as a result of this work.

27           The Agreement establishes rights and obligations concerning the ‘314 Patent. The parties  
28

1 agreed to arbitrate any disputes connected in any way to the implementation of the Agreement.

2 The FAC alleges Infuturia has rights under the Agreement to the '314 patent which have  
3 been confirmed by the arbitral award and of which all defendants had knowledge [FAC ¶¶ 31-44].  
4 The FAC further alleges that all defendants profited from research, inventions and developments  
5 that they knew fell within the scope of the Yissum-Infuturia contracts, and withheld from Infuturia  
6 profits that belonged to it. [45-107]. Because Infuturia had in place a valid and existing contract,  
7 including the Agreement, and defendants knew of the existence of the contract, they conspired to  
8 intentionally interfere with those rights, and exercised dominion over those legal rights [FAC ¶¶  
9 108-113, 117-120]. Further, the Israeli defendants breached a fiduciary duty to Infuturia by failing  
10 to disclose collaborations with third parties [FAC ¶¶ 121-124] and refusing to provide information to  
11 which they knew Infuturia was entitled [FAC ¶¶ 125-127]. As a result of the tortious conduct,  
12 Infuturia has allegedly lost money.

13 Contrary to plaintiff's assertion that the litigation does not "relate to" the Agreement with  
14 Yissum, it is evident that the scope of the contractual rights and duties established by the Agreement  
15 are central to this claims in litigation. The arbitration clause in paragraph 17 of the Agreement is  
16 sufficiently broad to encompass the claims in the litigation. In addition, the foreign arbitral award is  
17 equally central. The plaintiff intends to rely on the arbitrator's decision to assert its contractual  
18 rights created by the Agreement. The defendants intend to rely on the arbitrator's decision to assert  
19 affirmative defenses to the claims against them.

20 The Court agrees with the defendants and finds that removal was proper pursuant to 9  
21 U.S.C. § 205 because the subject matter of the litigation relates to the License Agreement and the  
22 Arbitral Award falling under the New York Convention, and the removal occurred before the trial.

23 Accordingly, the Motion to Remand is DENIED.

24 **CONCLUSION**

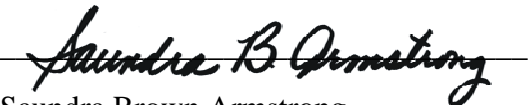
25  
26 The Court HEREBY DENIES Plaintiff's Motion to Remand [Docket No. 37]; GRANTS  
27 WITH LEAVE TO AMEND Defendant Sequus Pharmaceuticals, Inc.'s Motion for More Definite

1 Statement of Counts 3, 6, 9 and 14 [Docket No. 24]; and DENIES AS MOOT Defendants The  
2 Hebrew University's and Yechezkel Barenholz's *Ex Parte* Application to Stay or Continue the  
3 Proceedings Until Defendants' Motion to Stay Proceedings is Heard [Docket No. 63].

4 IT IS FURTHER ORDERED that Plaintiff shall have twenty (20) days from the date of the  
5 Order to file a Second Amended Complaint and Defendants twenty (20) days to file a responsive  
6 pleading. The Case Management Conference is CONTINUED to **April 1, 2009, at 3:15 p.m.**; and  
7 pursuant to the parties' stipulation, the parties defer the service of their respective Rule 26(a)(1) and  
8 Rule 26 (f) disclosures until forty-five (45) days from the date of this Order. [Docket No. 80].

9 IT IS SO ORDERED.

10  
11  
12 Dated: 2/23/09

  
Sandra Brown Armstrong  
United States District Judge