

EXHIBIT A
UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MARICAL INC., et al.,)	
)	
Plaintiffs,)	
)	
v.)	1:14-cv-00366-JDL
)	
COOKE AQUACULTURE INC.,)	
et al.,)	
)	
Defendants)	

LETTER ROGATORY TO
THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR, CANADA

The United States District Court for the District of Maine presents its compliments to the Supreme Court of Newfoundland and Labrador, Canada, and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in the above captioned matter. The United States District Court for the District of Maine is a competent court of law and equity which properly has jurisdiction over this proceeding and is authorized to issue letters rogatory pursuant to, *inter alia*, 28 U.S.C. § 1781(b)(2) and Rule 28(b) of the Federal Rules of Civil Procedure.

In this action, Plaintiffs and Counter Claim Defendants Marical Inc., Europharma AS, and Europharma Inc. Canada (“Plaintiffs”), allege that Defendants and Counter Claim Plaintiffs Cooke Aquaculture Inc., Cooke Aquaculture USA Inc., True North Salmon Co. Ltd., True North Salmon US Inc., True North Sales US Inc., and Salmones Cupquelan SA, Co. (“Defendants”), produce and import salmon raised by methods that infringe United

States Patent No. 6,463,883, United States Patent No. 6,475,792, United States Patent No. 6,481,379, and United States Patent No. 6,564,747, which patents-in-suit teach methods for raising pre-adult anadromous fish. (Complaint, ECF No. 1.) By way of counterclaim, Defendants seek a declaratory judgment of invalidity and non-infringement. (Answer and Counterclaims, ECF No. 16.)

Plaintiffs assert that the cause in question cannot be justly resolved without the opportunity to depose Ms. Jean Willcott, P.O. Box 237, Milltown, NL, Canada. Upon review of Plaintiffs' request for issuance of letter rogatory, this Court has concluded that the just resolution of the claims and counterclaims in this action calls for Ms. Willcott's deposition, as her testimony is likely to be probative of material facts relevant to Plaintiffs' claims of patent infringement and Defendants' counterclaims of patent invalidity. Accordingly, this Court requests the assistance of the Supreme Court of Newfoundland and Labrador to secure production of the evidence outlined herein.

This request is made with the understanding that it will in no way require any person to commit any offense, or to undergo a broader form of inquiry than he or she would if the litigation were conducted in a Canadian court. The requesting Court is satisfied that the evidence sought to be obtained through this request is relevant and necessary and cannot reasonably be obtained by other methods. Because this Court lacks authority to compel participation by Ms. Willcott and because such participation is necessary in order that justice be served in the above-captioned proceedings, this Court respectfully requests assistance from the Supreme Court of Newfoundland and Labrador.

The applicants for this Letter are Plaintiffs and it is respectfully requested that the executed request be returned to lead Counsel for Plaintiffs:

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A response is requested as soon as possible in order to ensure that the evidence may be obtained in advance of the schedule for post-discovery motion practice, currently anticipated to begin in the fall of 2017.

I. Summary of the Action

Plaintiffs' Complaint asserts that Defendants infringed one or more claims of the U.S. Patents referenced above, each of which patents pertains to methods of raising pre-adult anadromous fish, such as salmon. Ms. Willcott is or was a senior technician at Defendants' Swanger Cove Hatchery. In that capacity, she has participated in hatchery practices that, according to Plaintiffs, infringed the patents-in-suit. Important factual issues in this action include Defendants' hatchery practices related to the addition of PVCr modulator to freshwater fish tanks, whether the practices met the specifications of the patents-in-suit, and whether they were understood in the prior art or would have been obvious to the person of ordinary skill in the art. Plaintiffs seek to depose Ms. Willcott in part because she appeared in an episode of Undercover Boss Canada with Cooke Aquaculture CEO, Glenn Cooke, as set forth more fully in this Court's Order on Motion for Issuance of Letter Rogatory.

II. Evidence Requested from Jean Willcott.

This Court requests that the Supreme Court of Newfoundland and Labrador summon Jean Willcott to appear before a person empowered under Newfoundland law to administer oaths and take testimony. The questions asked of Ms. Willcott under oath or affirmation will pertain to the activities appearing in the Undercover Boss Canada, Season 2, Episode 4 and the regular practices and procedures of the Swanger Cove Hatchery from 2009 to the present, including:

1) the reasons why Ms. Willcott was instructing Mr. Cooke to add magnesium chloride and calcium chloride into the tanks;

2) from whom Ms. Willcott received instructions to add magnesium chloride and calcium chloride into the tanks or from where she obtained the idea to do so;

3) how Ms. Willcott determined the number of bags of magnesium chloride and calcium chloride that were to be added to the tanks by Mr. Cooke;

4) identification or confirmation of the tanks appearing in the episode as correlating to “Cell A” and “Cell B” of the log books;

5) the hatchery’s practices and procedures for adding magnesium chloride and calcium chloride to the tanks, as well as identification of any other materials, particularly PVC modulators, added to the tanks;

6) the hatchery’s methodology in adding a varying number of bags of magnesium chloride and calcium chloride to each of the tanks each day;

7) the volume of each of the tanks;

8) the hatchery’s purpose in recording water hardness and the practices involving such record keeping;

9) whether the varying amounts of magnesium chloride and calcium chloride recorded as having been added each day were in response to measured water hardness;

10) the hatchery's practices and procedures for feeding fish, including on the day the Undercover Boss TV episode was filmed;

11) why particular fish feeds were used at the Swanger Cove Hatchery and how they were administered to salmon; and

The deposition would be taken by the parties' legal representatives, including their counsel based in the United States, and recorded verbatim, including by audio and/or video recording.

IV. Reimbursement for Costs

To the extent the Court incurs expenses associated with providing assistance in response to this Letter Rogatory, this Court will see that the Supreme Court of Newfoundland and Labrador is reimbursed by Plaintiffs. If the Supreme Court of Newfoundland and Labrador determines that Ms. Willcott will incur significant costs to provide the requested discovery, the reimbursable expenses will be borne by Plaintiffs.

V. Reciprocity

This Court stands ready to extend similar assistance to the judicial tribunals of Canada pursuant to 28 U.S.C. § 1782(a).

/s/ John C. Nivison
John C. Nivison
United States Magistrate Judge
United States District Court, District of Maine
202 Harlow Street
Bangor, Maine 04401
(207) 945-0315

Dated this ____ day of August, 2017.