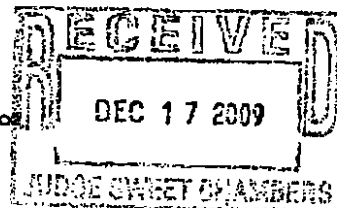


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December 17, 2009

VIA FACSIMILE (212) 805-7925

Honorable Robert W. Sweet
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: Association for Molecular Pathology, et al. v. U.S. Patent and Trademark Office, et al., Civil Action No. 09-4515 (RWS)

*S. ordered
Sweet
USDC
12/15/09*

Dear Judge Sweet:

We are counsel for defendants, Myriad Genetics ("Myriad") and the individuals named as Directors of the University of Utah Research Foundation ("Directors"). As you are aware, on next Wednesday, December 23, defendants, Myriad and the Directors, will be filing their opposition to plaintiffs' motion for summary judgment. We are writing this letter to seek permission to file an over-length opposition memorandum of law.

Pursuant to your Individual Practice Rules, unless "prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages. . . ." (Rule 2(c)). On August 20, counsel for plaintiffs wrote to the Court (copy attached), asking permission to file a memorandum of law of no more than 40 pages in support of their motion for summary judgment, also indicating that they "would, of course, agree to that same page limit for Defendants' opposition, if they so request." This request was granted and plaintiffs filed a 39 page memorandum.

As the Court has recognized, this case raises important, unique and difficult legal and social issues concerning the validity and constitutionality of thousands of gene-related patents, which extend well beyond the parties and patents presently before the Court. Plaintiffs have filed a massive amount of materials in support of their summary judgment motion, including more than thirty supporting declarations (and exhibits). Moreover, four amici briefs have been filed in support of plaintiffs. In order to adequately respond to plaintiffs' summary judgment motion, we respectfully request that the Court approve the filing of an opposition memorandum of law no more than 50 pages. We will, of course, try to do with less, but feel at this time that the additional requested pages may be necessary. Counsel for plaintiffs has consented to this request.


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Respectfully,



Brian M. Poissant

cc: (via email)

Christopher A. Hansen
Daniel B. Ravicher
Ross E. Morrison, Esq.