

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

TRIANAFYLLOS TAFAS,
Plaintiff,
v.
JON W. DUDAS, et al.
Defendants.
Civil Action No. 1:07cv846 (JCC/TRJ)

CONSOLIDATED WITH

SMITHKLINE BEECHAM
CORPORATION, et al.,
Plaintiffs,
v.
JON W. DUDAS, in his official capacity as,
Under-Secretary of Commerce for
Intellectual Property and Director of the
United States Patent and Trademark Office,
et al.,
Defendants.
Civil Action No. 1:07cv1008 (JCC/TRJ)

MOTION OF AMICUS CURIAE HUMAN GENOME SCIENCES, INC.
FOR LEAVE TO FILE ITS BRIEF IN SUPPORT OF
THE "GSK" PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Human Genome Sciences, Inc. ("HGS"), by undersigned counsel, moves for leave to file its brief as amicus curiae in support of plaintiffs Smithkline Beecham Corporation, Smithkline Beecham PLC and Glaxo Group Limited's Motions for Summary Judgment.

HGS is a small biopharmaceutical company dedicated to discovery, development, manufacture and marketing of innovative drug products for patients with unmet medical needs

including lupus, hepatitis C and anthrax. Since its founding in 1992 over 500 patents have been issued to HGS. Currently HGS has more than 200 patent applications pending at the USPTO. Unlike GSK, HGS has not yet introduced any products into the market.

HGS wishes to submit a brief addressing how the retroactive impact of the new Rules will adversely impact small innovative companies like HGS who are trying to maximize their as yet un-recouped capital investment in cutting edge biopharmaceutical innovations by consolidating patent applications.

Pursuant to this Court's Order of December 5, 2007, HGS respectfully requests leave of this Court to file the enclosed *Amicus* Brief explaining the especially dramatic impact the retroactive application of the new rules would have on HGS and similar small biopharmaceutical companies. HGS believes its special situation provides it with a unique perspective that will be useful to the Court in adjudicating the parties' cross motions for summary judgment.

HGS is authorized to state that GSK Plaintiffs and Mr. Tafas have consented to the filing of this brief. Additionally, The United States Patent and Trademark Office takes no position in response to the filing of this brief. Accompanying this Motion is a proposed order granting HGS leave to file the enclosed *Amicus* Brief.

WHEREFORE, for good cause shown, Human Genome Sciences, Inc. requests that the Court grant leave to file the attached *Amicus* Brief and deem the brief filed as of the date of this motion without need to refile.

Dated: This 19th day of December, 2007.

Respectfully Submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of December 2007, the foregoing pleading was filed electronically using the CM/ECF system, which will send notification by electronic means to the following counsel of record:

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