

INGURAN, LLC et al. v. ABS Global, Inc. et al. 2017-03-15

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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INGURAN, LLC d/b/a STGENETICS,  
XY, LLC, and CYTONOME/ST, LLC,

Plaintiff/Counterclaim Defendant,

Case No. 17-cv-446-wmc

v.

ABS, GLOBAL, INC., GENUS PLC, and  
PREMIUM GENETICSS (UK) LTD.,

Defendants/Counterclaim Plaintiffs.

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FINAL JUDGMENT

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IT IS ORDERED AND ADJUDGED that

- 1) Judgment is entered in favor of plaintiffs/counterclaim defendants Inguran, LLC d/b/a Sexing Technologies (“ST”) and Cytonome/ST, LLC (“Cytonome”), and against defendants/counterclaim plaintiffs ABS Global, Inc. (“ABS”) and Genus plc (“Genus”), jointly and severally, on ST and Cytonome’s claims of infringement of claims 1, 11, and 15 of U.S. Patent No. 7,311,476 (the “476 patent”) and claim 14 of U.S. Patent No. 7,611,309 (the “309 patent”) based on ABS’s “GSS” and “SSC-A” microfluidic chips. ST and Cytonome shall recover for their past damages caused by ABS and Genus’s infringement as set forth below:
  - a) ABS and Genus shall pay damages both for (i) sales made by ABS or any ABS affiliate or licensee of sexed semen straws that were processed in the United States with infringing microfluidic chips (specifically including sales

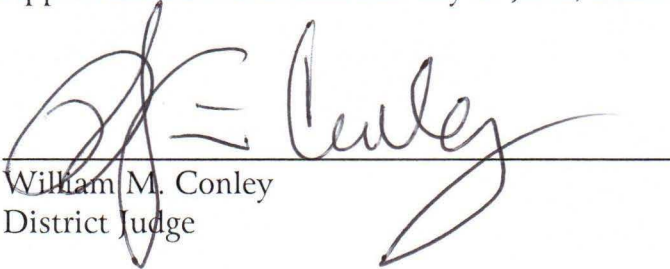
and/or transfers of such straws to any ABS affiliate) (the “U.S.-Processed Straws”), and (ii) sales made by ABS or any ABS affiliate or licensee of sexed semen straws that were processed outside the United States with infringing microfluidic chips that were either manufactured in or at any time prior to the production of such straws imported into the United States (the “Foreign-Processed Straws”).

- b) For sales of U.S.-Processed Straws that took place on or before September 10, 2019, and sales of Foreign-Processed Straws that took place on or before June 30, 2019, ABS and Genus shall pay ST and Cytonome damages in the amount of \$10,295,196.60, along with prejudgment interest in the amount of \$653,664.12.
- c) For sales of Foreign-Processed Straws that took place between July 1, 2019, and September 10, 2019, ABS and Genus shall pay ST and Cytonome damages at the rate of \$2.60 per sexed semen straw, along with prejudgment interest (calculated at the prime rate, compounded annually). ABS and Genus shall provide a royalty report accounting for the number of royalty-bearing sales and showing how prejudgment interest was calculated, and pay for such damages to ST and Cytonome within 60 days of the entry of this judgment.
- d) To the extent applicable, ABS and Genus shall pay ST and Cytonome post-judgment interest on the above damages amounts, as provided for in 28 U.S.C. § 1961.

- 2) Judgment is entered in favor of ST and Cytonome for ABS or Genus's infringement of the '476 patent and '309 patent on or after September 11, 2019, granting ST and Cytonome an ongoing royalty of (a) \$2.60 for every sale by ABS or any ABS affiliate or licensee of a U.S.-Processed Straw or Foreign-Processed Straw, where the infringing chip that produced the straw was manufactured in or imported into the United States before January 22, 2020, and (b) \$3.25 for every sale by ABS or any ABS affiliate or licensee of a U.S.-Processed Straw or Foreign-Processed Straw, where the infringing chip that produced the straw was manufactured in or imported into the United States on or after the January 22, 2020. This ongoing royalty obligation shall run through the remaining life of the '476 and '309 patents. Any ongoing royalty payments shall be made on a quarterly basis with a report that includes an accounting of the number of royalty-bearing straws that were sold during that quarter. Such payment and report shall be made within 60 days of the end of the calendar quarter for which payment and reporting are made, except that the first report and payment -- covering pre-judgment sales between September 11, 2019 and the date of this judgment -- will be due 60 days after the entry of judgment.
- 3) Judgment is entered in favor of ST and against ABS and Genus on ABS and Genus's claims of invalidity of claims 1, 11, and 15 of the '476 patent.
- 4) Judgment is entered in favor of ST and against ABS and Genus on ABS and Genus's claims of invalidity of claim 14 of the '309 patent.

- 5) Judgment is entered in favor of ST and against ABS on ABS's claim that ST breached the quality control provisions of ST and ABS's 2012 Semen Sorting Agreement.
- 6) Judgment is entered in favor of ABS and Genus and against ST and Cytonome on ST and Cytonome's claims of infringement of U.S. Patent No. 8,529,161 and U.S. Patent No. 9,446,912.
- 7) Judgment is entered in favor of ABS and Genus and against ST and XY, LLC ("XY") on ABS and Genus's claim for declaratory judgment of invalidity of claims 1-7, 17-19, 21-22, 28, 30-32, and 38-44 of the U.S. Patent No. 6,524,860 (the "860 patent").
- 8) Judgment is entered in favor of ABS, Genus, and Premium Genetics (UK) Ltd on XY's claims of trade secret misappropriation under state and federal law.
- 9) Judgment is entered in favor of ABS, Genus, and Premium Genetics (UK) Ltd on ST's breach of contract claim.

Approved as to form this 5th day of June, 2020.

  
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William M. Conley  
District Judge

  
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Peter Oppeneer  
Clerk of Court

6/8/20  
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Date