IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ZYMOGENETICS, INC., a Washington Corporation, Plaintiff, v. BRISTOL-MYERS SQUIBB CO., a Delaware Corporation, and DOES 1 through 100, Defendants.	)	C.A. No. 06-500-SLR-MPT

FINAL JOINT CLAIM CONSTRUCTION CHART

Plaintiff ZymoGenetics, Inc. ("ZymoGenetics") and Defendant Bristol-Myers Squibb Co. ("Bristol") jointly submit their Final Joint Claim Construction Chart for the Patents-in-suit:

- U.S. Patent No. 5,843,725 ("the '725 Patent")
- U.S. Patent No. 6,018,026 ("the '026 Patent")

After meeting and conferring, the parties were able to reach agreement that some terms of the Patents-in-Suit did not require construction, but were unable to reach agreement regarding the construction of other terms found in the '725 Patent and '026 Patent. Exhibit A sets forth the parties' respective construction of the disputed claim language, with citations to the intrinsic evidence in support of their respective proposed constructions.

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CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on May 7, 2008, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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EXHIBIT A

EXHIBIT A

Proposed Construction and Intrinsic Evidence For Disputed Terms in United States Patent No. 5,843,725 and United States Patent No. 6,018,026

Claim Limitation	Claims at Issue	ZymoGenetics' Proposed Construction & Intrinsic Evidence	Bristol's Proposed Construction & Intrinsic Evidence
biologically active	**'026 Patent:** Claims 1-4, 7, 30	To the extent that the Court deems it appropriate to construe the term, it is ZymoGenetics' position that the term should be construed according to its ordinary meaning in the context of the claims.	exhibits one or more biological activities of its native counterpart **'026 Patent (Appendix A-2)** - col. 9, lines 61-63 **Prosecution History of United States Patent Appln. 08/980,400 file history (application leading to the '026 Patent) (Appendix A-5)** - November 28, 1988 Office Action - March 29, 1999 Amendment Note: Bristol objects to ZymoGenetics' failure to provide a proposed construction, and plans to address such failure with the Court.
active	**'725 Patent:** Claims 1-3, 5, 6, 50	To the extent that the Court deems it appropriate to construe the term, it is ZymoGenetics' position that the term should be construed according to its ordinary meaning in the context of the claims.	exhibits one or more biological activities of its native counterpart **'725 Patent (Appendix A-1)** - col. 9, lines 42-45 **Prosecution History of United States Patent Appln. 08/980,400 (application leading to the '026 Patent) (Appendix A-5)** - November 28, 1998 Office Action - March 29, 1999 Amendment

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			Note: Bristol objects to ZymoGenetics' failure to provide a proposed construction, and plans to address such failure with the Court.
non-immunoglobulin polypeptide	**'725 Patent:** Claims 1-3, 5, 6, 50 **'026 Patent:** Claims 1-4, 7, 30	ordinary meaning within context of claims **'725 Patent (Appendix A-1)** col.13, lines 36-48; col.14, lines 16-18, col.14, line 21 **'026 Patent (Appendix A-2)** col. 13, line 56 - col.14, line 1, col. 14, lines 36-39; col. 14, line 41	a polypeptide that: (a) is <u>not</u> encoded by immunoglobulin-like genes which encode discrete domains structurally similar to immunoglobulin; and (b) does <u>not</u> have significant sequence homology to immunoglobulin **Prosecution History of EP 89100787.4 (priority application) (Appendix A-3)** - September 4, 1992 Communication from European Patent Office - March 11, 1993 Response to the September 4, 1992 Communication from the European Patent Office Note: Bristol objects to ZymoGenetics' failure to provide a proposed construction, and plans to address such failure with the Court.
requiring dimerization for biological activity	**'725 Patent:** Claims 1-3, 5, 6, 21, 22, 24, 25, 50, 51 **'026 Patent:** Claims 1-4, 7, 30	ordinary meaning within context of claims **'725 Patent (Appendix A-1)** col.10, lines 37-50; col.11, lines 30-37 **'026 Patent (Appendix A-2)** col. 10, lines 58 - col.11, line 4; col. 11, lines 51-58	needing to be dimerized to have biological activity, *i.e.*, (a) unless a dimer, it has no biological activity; and (b) will not dimerize on its own **'725 Patent (Appendix A-1)** - col. 9, line 67 - col. 10, line 3 - col. 10, lines 37-50 - col. 11, lines 30-37 **'026 Patent (Appendix A-2)** - col. 10, lines 21-24 - col. 10, line 58 – col. 11, line 4 - col. 11, lines 51-58

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			Prosecution History of United States Patent Appln. 07/347, 291 (related patent application) (Appendix A-4) - March 2, 1990 Office Action - July 2, 1990 Amendment - August 23, 1990 Office Action - November 19, 1990 Amendment **United States Patent 6,323,323 (related patent) (Appendix A-6)** - Claim 1 Note: Bristol objects to ZymoGenetics' failure to provide a proposed construction, and plans to address such failure with the Court.
biological activity	**'725 Patent:** Claims 1-3, 5, 6, 21, 22, 24, 25, 50, 51 **'026 Patent:** Claims 1-4, 7, 30	A function or set of activities performed by a molecule in a biological context (i.e., in an organism or an in vitro facsimile thereof). Biological activities may include the induction of extracellular matrix secretion from responsive cell lines, the induction of hormone secretion, the induction of chemotaxis, the induction of mitogenesis, the induction of differentitation, or the inhibition of cell division of responsive cells. A recombinant protein or peptide is considered to be biologically active if it exhibits one or more biological activities of its native counterpart. **'725 Patent (Appendix A-1)** col. 9, lines 36-46 **'026 Patent (Appendix A-2)** col. 9, lines 52-63	a function or set of activities performed by a molecule in a biological context (i.e., in an organism or an in vitro facsimile thereof). **'725 Patent (Appendix A-1)** - col. 9, lines 35-38 **'026 Patent (Appendix A-2)** - col. 9, lines 52-56
dimerizing protein	**'725 Patent:** Claims 1-3, 5, 6, 21, 22, 24,	A polypeptide chain having affinity for a second polypeptide chain, such that the two chains associate under physiological conditions to form a dimer. The	a polypeptide chain having affinity for a second polypeptide chain, such that the two chains associate under physiological conditions to form a dimer, wherein

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	25, 50, 51 **'026 Patent:** Claims 1-4, 7, 30	second polypeptide chain may be the same or a different chain. **'725 Patent (Appendix A-1)** col. 9, lines 31-34 **'026 Patent (Appendix A-2)** col. 9, lines 46-51	the dimerizing protein causes or drives the dimerization of non-immunoglobulin polypeptide that is joined to it that would not otherwise form a stable dimer but for the action of said dimerizing protein **'725 Patent (Appendix A-1)** - col. 9, lines 31-34 - col. 13, lines 7-10 - col. 13, lines 22-24 - col. 13, lines 32-34 **'026 Patent (Appendix A-2)** - col. 9, lines 46-51 - col. 13, lines 28-31 - col. 13, lines 42-44 - col. 13, line 53-55 **Prosecution History of United States Patent Appln. 07/347, 291 (related patent application) (Appendix A-4)** - March 2, 1990 Office Action - July 2, 1990 Amendment
receptor analog	**'725 Patent:** claims 21, 22, 24 and 25, 51	A non-immunoglobulin polypeptide comprising a portion of a receptor which is capable of binding ligand and/or is recognized by anti-receptor antibodies. The amino acid sequence of the receptor analog may contain additions, substitutions, or deletions as compared to the native receptor sequence. A receptor analog may be, for example, the ligand-binding domain of a receptor joined to another protein. Platelet-derived growth factor receptor (PDGF-R) analogs may, for example, comprise a portion of a PDGF receptor, capable of binding anti-PDGF receptor antibodies, PDGF, PDGF isoforms, PDGF analogs, or PDGF antagonists. **'725 Patent (Appendix A-1)**	a polypeptide comprising a portion of a receptor which is capable of binding ligand, wherein said polypeptide: (a) is <u>not</u> encoded by immunoglobulin-like genes which encode discrete domains structurally similar to immunoglobulin; and (b) does <u>not</u> have significant sequence homology to immunoglobulin **'725 Patent (Appendix A-1)** - col. 9, lines 18-20 - Claim 21 **Prosecution History of EP 89100787.4 (priority**

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		col.9, lines 18-29 **'026 Patent (Appendix A-2)** col.9, lines 31-45	**application) (Appendix A-3)** - September 4, 1992 Communication from European Patent Office - March 11, 1993 Response to the September 4, 1992 Communication from the European Patent Office
ligand-binding domain of a receptor	**'725 Patent**: claims 21, 22, 24 and 25, 51	that portion of the receptor that is involved with binding the natural ligand. **'725 Patent (Appendix A-1)** col.10, lines 10-12 **'026 Patent (Appendix A-2)** col.10, lines 31-33	that portion of a receptor that is involved with binding the natural ligand, wherein said portion of receptor (a) is not encoded by immunoglobulin-like genes which encode discrete domains structurally similar to immunoglobulin; and (b) does not have significant sequence homology to immunoglobulin **'725 Patent (Appendix A-1)** - col.10, lines 10-12, 39-44 - Claim 21 **Prosecution History of EP 89100787.4 (priority application) (Appendix A-3)** - September 4, 1992 Communication from European Patent Office - March 11, 1993 Response to the September 4, 1992 Communication from the European Patent Office
ligand	**'725 Patent**: claims 21, 22, 24 and 25, 51	A molecule capable of being bound by the ligand-binding domain of a receptor or by a receptor analog. The molecule may be chemically synthesized or may occur in nature. Ligands may be grouped into agonists and antagonists. Agonists are those molecules whose binding to a receptor induces the response pathway within a cell. Antagonists are those molecules whose binding to a receptor blocks the response pathway within a cell. **'725 Patent (Appendix A-1)** col.9, lines 47-54 **'026 Patent (Appendix A-2)**	a molecule capable of being bound by the ligand-binding domain of a receptor or by a receptor analog **'725 Patent (Appendix A-1)** - col. 9, lines 47-48

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col.9, line 64 - col.10, line 6