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

PLAINTIFF ZYMOGENETICS, INC.'S MOTION FOR SUMMARY JUDGMENT OF VALIDITY OF PATENTS-IN-SUIT WITH RESPECT TO THE CAPON PATENTS AND THE SEED PATENT

Plaintiff ZymoGenetics, Inc. ("ZymoGenetics") hereby requests the Court grant a judgment finding that U.S. Patent No. 5,843,725 ("the '725 Patent") and U.S. Patent No. 6,018,026 ("the '026 Patent") are valid over U.S. Patent Nos. 6,004,781 ("the Seed patent") and U.S. Patent No. 5,336,603, U.S. Patent No. 5,565,335, U.S. Patent No. 6,117,655, and U.S. Patent No. 6,710,169 (collectively the "Capon patents") pursuant to Federal Rule of Civil Procedure 56. The evidence will show that, based on the date of invention, the '725 and '026 Patents are valid in light of the Seed patent and the Capon patents because the Seed patent and the Capon Patents are not prior art to the '725 and '026 Patents. Additionally, Defendant Bristol-Myer Squibb Co. cannot meet its burden of proof to show that the '725 and '026 Patents are invalid under 35 U.S.C. § 102(e) and § 103 with respect to the Seed patent and the Capon Patents.

For the foregoing reasons, and for those set forth in ZymoGenetics' memorandum of points and authorities in support of this motion filed herewith, and all the documents and papers filed in this case and all oral argument the Court may request, ZymoGenetics respectfully requests that the Court grant its Motion.

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Dated: May 16, 2008
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CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on May 16, 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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