

Susman Godfrey Files COVID-19 Vaccine Patent Infringement Actions Against Moderna, Pfizer, and BioNTech

06.06.2023 | 10 | 21NEWS

Susman Godfrey has filed major patent actions against Moderna, Pfizer and BioNTech alleging that mRNA-based COVID-19 vaccines offered by the three pharmaceutical companies infringe patented technology of Susman Godfrey client, Promosome LLC. While these pharma giants are currently embroiled in a legal battle over shares of more than \$100 billion in collective vaccine revenue, the suits filed today allege that a small biotech company helped unleash the powerful effects of the defendants' mRNA vaccines long before the COVID-19 pandemic.

The patented technology at issue was developed by Nobel laureate Gerald Edelman, Vincent Mauro, Stephen Chappell, and Wei Zhou at The Scripps Research Institute. By 2009, the scientists' deep understanding of protein synthesis led to the discovery of a novel method of modifying mRNA to increase protein expression. This method, the suits allege, makes mRNA vaccines safer and significantly more effective. It is protected by U.S. Patent No. 8,853,179 (the "'179 patent"), entitled "Reengineering mRNA Primary Structure for Enhanced Protein Production."

The first lawsuit, against Moderna, describes how, under a 2013 Confidential Disclosure Agreement, Promosome taught its method to Moderna's highest levels of leadership, including CEO Stéphane Bancel and President Stephen Hoge. While Moderna did not take a license to the '179 Patent, mRNA sequence reverse engineering shows that Moderna took the patented technology for its vaccine, Spikevax®. Spikevax® has generated more than \$35 billion in revenues. Read the complaint here.

The second lawsuit, against Pfizer and BioNTech, alleges that Pfizer and BioNTech's joint COVID-19 vaccine Comirnaty® willfully infringes the '179 Patent. In 2015, Promosome shared its technology with BioNTech scientist, Dr. Katalin Karikó, but neither BioNTech nor Pfizer sought a license for Comirnaty®, which has generated revenues greater than \$75 billion. Read the complaint here.

Bill Carmody is lead lawyer on the matter. Carmody is joined on the matter by Susman Godfrey partners Joe Grinstein, Amanda Bonn, and Shawn Blackburn and Associate Taylor Hoogendoorn. The cases, filed in the Southern District of California, are *Promosome LLC v. Moderna, Inc. et al.* and *Promosome LLC v. Pfizer Inc. et al.*