

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Case No.: 08-cv-119**

Collectis SA,

*Plaintiff,*

v.

Precision BioSciences, Inc.,

*Defendant.*

Jury Trial Demanded

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff Collectis SA (“Collectis”) hereby alleges for its Complaint against defendant Precision BioSciences, Inc. (“Precision”), on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

**THE PARTIES**

1. Plaintiff Collectis is a corporation organized under the laws of France, and maintains its principal place of business at 102 Avenue Gaston Roussel, F-93235, Romainville Cedex, Paris, France.

2. Defendant Precision is a corporation organized under the laws of Delaware, and maintains its principal place of business at 104 T.W. Alexander Dr., Bldg. 7, Durham, NC 27713.

**NATURE OF THE ACTION**

3. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1, et seq., and seeking damages and injunctive relief under 35 U.S.C. §§ 281-285.

## **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has general and specific personal jurisdiction over Precision based on the location of its principal place of business in North Carolina, and the fact that Precision has been and is committing acts of infringement of Collectis' patents in North Carolina.

6. Venue is proper in this judicial district based on 28 U.S.C. § 1400 (b) and/or 28 U.S.C. § 1391 (b) and (c).

## **BACKGROUND**

### **The Patents In Suit**

7. United States Patent No. 7,309,605 ("the '605 patent") was duly and legally issued by the United States Patent and Trademark Office ("the PTO") on December 18, 2007. A copy of the '605 patent is attached as Exhibit A.

8. United States Patent No. 6,610,545 ("the '545 patent") was duly and legally issued by the PTO on August 26, 2003. A copy of the '545 patent is attached as Exhibit B.

9. Each of the '605 patent and '545 patent is entitled "Nucleotide Sequence Encoding the Enzyme I-SceI and the Uses Thereof." These two patents are directed to methods of using Group I intron encoded endonucleases as a means for producing a site directed double-stranded break in DNA, for promotion of genetic recombination in an organism. Using the inventive methods of these patents, scientists can insert genes at specific target sites in the DNA of a given organism (such as a plant, for example), such that the altered organism will advantageously express the inserted genes following that insertion.

10. The '605 patent and the '545 patent are owned by Institut Pasteur ("Pasteur") and Universite Pierre et Marie Curie, both of Paris, France. Collectis has been and is the exclusive licensee of the patent owners under the '605 patent and '545 patent. Pursuant to its exclusive license, Collectis has the right to sue Precision for infringement of those patents and to seek and obtain monetary and injunctive damages for such infringement.

### **Defendant's Infringing Activities**

11. On information and belief, Precision has been and is using what it calls the Directed Nuclease Editor (DNE) to make certain endonucleases that are specifically intended for use in methods of preparing transgenic organisms, including plants, wherein those endonucleases target site-specific DNA breaks and effect a desired genome modification in the organism. The methods for which Precision has been and is specifically making its endonucleases are covered by one or more claims of the '605 patent and '545 patent.

12. More specifically, on information and belief, for example, Precision has been and is making Group I intron encoded endonucleases that are specifically intended for use by others in methods for inducing at least one site directed double-stranded break in the DNA of an organism, such as a plant, wherein the methods include (a) providing an isolated cell of that organism containing at least one Group I intron encoded endonuclease recognition site at a location in the DNA of the cell, and (b) providing the Group I intron encoded endonuclease to that cell by genetically modifying the cell with a nucleic acid comprising the Group I intron encoded endonuclease or by introducing the Group I intron encoded endonuclease protein into the cell, such that the Group I intron encoded endonuclease cleaves the Group I intron encoded endonuclease site at the location in the DNA of the cell.

13. In addition, on information and belief, for example, Precision has been and is making such Group I intron encoded endonucleases as set forth in paragraph 11 that are specifically intended for use by others in methods that include the steps of (a) providing a transgenic cell, like a transgenic plant cell, having a Group I intron encoded endonuclease recognition site inserted at a unique location in a chromosome, (b) providing an expression vector that expresses that endonuclease in the transgenic cell, (c) providing a plasmid comprising a gene of interest and a DNA sequence homologous to the sequence of the chromosome and allowing homologous recombination, (d) transfecting that transgenic cell with the foregoing plasmid, (e) expressing that endonuclease from the expression vector in the above cell, and (f) cleaving the Group I intron encoded endonuclease recognition site with the endonuclease, whereby that cleavage promotes the insertion of said gene of interest into the chromosome of the organism at a specific site.

14. Finally, on information and belief, Precision has been and is using the above endonucleases that it makes to practice the foregoing methods covered by one or more claims in the '605 patent and '545 patent.

15. As a direct and proximate consequence of this infringement by Precision, Collectis has been and will continue to be injured in its business and property rights unless the infringement is enjoined by this Court, and has suffered and will continue to suffer injury and damages for which it is entitled to relief.

**COUNT I**  
**PATENT INFRINGEMENT OF THE '605 PATENT**

16. The allegations of paragraphs 1 to 15 are incorporated by reference as if fully set forth herein.

17. Through its above activities, Precision has been directly infringing one or more claims of the '605 patent, and contributing to and inducing the direct infringement of those claims by third parties who use the endonucleases made by Precision for use in the claimed methods of that patent.

18. On information and belief, Precision's infringement of the '605 patent has been and continues to be willful and deliberate.

**COUNT II**  
**PATENT INFRINGEMENT OF THE '545 PATENT**

19. The allegations of paragraphs 1 to 18 are incorporated by reference as if fully set forth herein.

20. Through its above activities, Precision has been directly infringing one or more claims of the '545 patent, and contributing to and inducing the direct infringement of those claims by third parties who use the endonucleases made by Precision for use in the claimed methods of that patent.

21. On information and belief, Precision's infringement of the '545 patent has been and continues to be willful and deliberate.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Collectis hereby prays for the entry of a judgment from this Court:

- a. that Defendant Precision is directly infringing one or more claims of the '605 patent and '545 patent, and contributing to and inducing direct infringement by third parties of those claims;
- b. that Precision's infringement is willful and that this is an exceptional case under 35 U.S.C. § 285;
- c. that the '605 patent and the '545 patent are valid and enforceable;

- d. permanently enjoining Precision, its respective officers, agents, servants and employees, and those persons in active concert or participation with any of them, from infringing the '605 patent and the '545 patent;
- e. awarding Plaintiff Collectis damages in accord with 35 U.S.C. § 284 for said infringement;
- f. awarding Plaintiff Collectis its attorneys fees, costs and expenses; and
- g. awarding Plaintiff Collectis such other and further relief as this Court may deem to be just and proper.

**JURY DEMAND**

Plaintiff Collectis respectfully demands a jury trial pursuant to Rule 38(b) of the Federal Rules of Civil Procedure on all issues so triable.

Respectfully submitted, this 13<sup>th</sup> day of March, 2008.

SMITH MOORE LLP

/s/ James L. Gale

James L. Gale  
State Bar No. 6160  
Kelly T. Ensslin  
State Bar No. 33908  
2800 Two Hanover Square  
Raleigh, North Carolina 27601  
Telephone: 919-755-8763  
Facsimile: 919-835-3111  
jim.gale@smithmoorelaw.com  
kelly.ensslin@smithmoorelaw.com

KENYON & KENYON LLP  
Richard S. Gresalfi  
Paul M. Richter, Jr.  
One Broadway  
New York, New York 10004-1007  
Telephone: 212-908-6121  
Facsimile: 212-425-5288  
rgresalfi@kenyon.com  
prichter@kenyon.com

*COUNSEL FOR PLAINTIFF  
CELLECTIS SA*