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CSHL Expands Lawsuit Against IP Counsel to Include Charges of Dealings with Other RNAi Clients

by Doug Macron

Old Spring Harbor Laboratory has filed court papers seeking to expand its lawsuit against law firm Ropes & Gray to include charges that it inappropriately represented clients in the RNAi field "whose interests were in direct conflict" with the research institution.

CSHL specifically names Arrowhead Research subsidiaries Calando Pharmaceuticals and Insert Therapeutics, which were merged into one firm under the Calando name in 2008, and RXI Pharmaceuticals.

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Notably, CSHL points out in its latest court filings that former Ropes & Gray attorney Matthew Vincent, who is at the heart of the litigation, was a co-founder of Calando, and alleges that Vincent included CSHL intellectual property in a 2002 Insert patent application.

The legal row began in February when CSHL sued the law firm and Vincent for allegedly improperly prosecuting two patent applications — Nos. 20040018999, filed May 16, 2001, and 20020162126, filed May 24, 2001 — covering the work of CSHL investigator Greg Hannon (*GSN 2/25/2010*).

In its suit, CSHL charges that Vincent, who was handling the filings, did not provide "an original, complete description of ... Hannon's work ... [but instead] relied upon copying extensive portions of text — essentially verbatim — from a prior patent application" published by RNAi pioneers Andrew Fire, of the Carnegie Institution of Washington, and Craig Mello, of the University of Massachusetts Medical School.

Fire and Mello's work gave rise to US patent No. 6,506,559, entitled "Genetic Inhibition by Double-Stranded RNA" — the seminal patent in the RNAi field.

In doing so, Vincent created the impression that Hannon's work was "either something that Fire invented or was suggested by the Fire application," rather than a novel invention that "represented a considerable advance over the prior art," the suit alleges.

The suit further claims that Vincent concealed his actions from CSHL and Hannon, and by the time the situation came to light, the applications had already been "unfairly prejudiced." Both applications were ultimately rejected by the USPTO.

CSHL said that the total losses related to Vincent's alleged malpractice are as much as \$82.5 million, which includes lost revenues from commercial user licenses and royalties.

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Vincent was disbarred in Massachusetts late last year over allegations that a company he created inappropriately billed Ropes & Gray clients.

For its part, Ropes & Gray has maintained in court documents that the USPTO rejections of the Hannon applications were not solely based on the Fire IP, but also because of the inventions of other researchers.

"CSHL does not suggest in its complaint that ... Vincent's alleged malpractice did anything to contribute to the [USPTO's] determination that the disclosures of these other scientists besides ... Fire precluded claims in the Hannon applications," the law firm noted.

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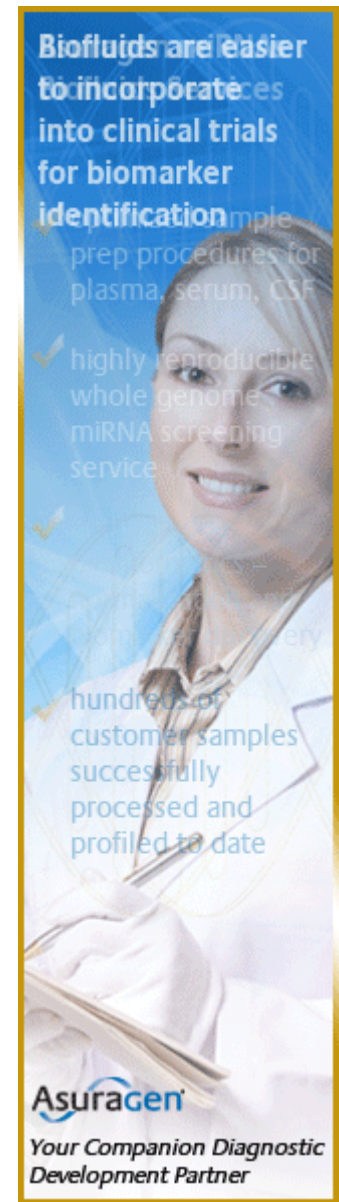
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• Business

→ In an effort to move back toward profitability, Celera is undertaking a restructuring, which will reduce its headcount by approximately 50 full-time positions in the United States. Celera announced the restructuring in tandem with the release of its Q3 results, which included a 21 percent revenue decline.

• Funding

→ The Internal Revenue Service has awarded \$1 billion in grants and tax credits to a large number of genomics and molecular diagnostic companies, such as High Throughput Genomics, Health Discovery, Quanterix, On-Q-Itly, and Exact Sciences. Check out this month's humor page here:

• Genome Technology Magazine

With a new party in the majority in the US House of Representatives, how do you think science and research will be affected?

- No change. Politics moves slowly and in the end doesn't do much.
- Small change. Some things will be held back, but overall, most research will proceed as normal.
- Big change. Any controversial research won't be funded and the community will fall behind.
- Who cares? I'm moving to Europe!

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