

COURT OF CHANCERY
OF THE
STATE OF DELAWARE

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Case No. 2471-VCS



LEO E. STRINE, JR.
VICE CHANCELLOR

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July 10, 2009

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RE: *SinoMab BioScience Ltd., et al. v. Immunomedics, Inc.*
C.A. No. 2471-VCS

Dear Counsel:

I suppose I should have assumed, based on the history of this case, that even settling the final judgment would be contentious. I am just thankful that there are only two issues.

I will resolve them now based on the record submitted, as further briefing would be entirely wasteful of the parties' resources.

First, Immunomedics' request for fees is disproportionate to the victory it won and what it had to do to get that victory. As of June 2007, claim one of Shui-On Leung's Initial Application was withdrawn. Although I understand Immunomedics' contention that Dr. Leung retained the right to resubmit it, the reality was that claim one was no longer pending. Nor do I understand Immunomedics to have asked Dr. Leung to agree to a formal order or promise that he would never resubmit that claim, and to have received a refusal. After June 2007, therefore, I cannot conclude that the further expenditure of legal fees was rationally related to this issue, and that was the only basis for the fee award. As to the period before June 2007, I will not quibble with the 20% proposed allocation, which seems generally reasonable and which strikes me as more reasonable than the cramped approach taken by the plaintiffs. Twenty percent of the fees for that period appears to be \$61,656.48, which I will round up to \$65,000 to adjust in a rough way for the time value of money and to avoid further haggling that will be more expensive than what it is worth.

Second, the language “or that claim any idea described in the Initial Application other than the idea of making a separate FR4 determination” is appropriate. Immunomedics has never argued that it might have a proprietary right to any idea in the Initial Application except for the concept of separate FR4 determinations. And, even in its letter disputing the relevant language, Immunomedics has failed to describe or point out any other idea that it might have a right to. Should this language give rise to a future dispute, any ambiguity about what constitutes a separate FR4 determination, and therefore what Immunomedics can claim as its invention, will be illuminated by this court’s opinion, which discusses that concept at several points, most notably on pages 9 and 10.

The parties shall submit a conforming final judgment by Monday, July 13.

IT IS SO ORDERED.

Very truly yours,

/s/ Leo E. Strine, Jr.

Vice Chancellor

LESJr/eb