United States District Court,
D. Delaware.

SCRIPTGEN PHARMACEUTICALS, INC,
Plaintiff.
v.
3-DIMENSIONAL PHARMACEUTICALS, INC,
Defendant.

Civil Action No. 98-583-GMS

Dec. 15, 1999.

Joanne Ceballos, Potter Anderson & Corroon, LLP, Wilmington, DE, for Plaintiff.

Julia Heaney, Jack B. Blumenfeld, Morris, Nichols, Arsht & Tunnell LLP, Wilmington, DE, for Defendant.

ORDER

For the reasons stated by the Court in its Memorandum Opinion of this date, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that:

1. The term "rapid, large scale screening," as used in the preamble of the asserted claims of the patents in suit, means that several thousand test ligands are to be screened through a process which can be completed within a number of hours or, at most, a number of days;

2. The term "test ligand," as used in the asserted claims of the patents in suit, means "an agent which is a compound, molecule, or complex that is being tested for its ability to bind to a target protein;"

3. The term "target protein," as used in the asserted claims of the patents in suit, means "a peptide, polypeptide, protein, or protein complex for which identification of a ligand or binding partner is desired;"

4. The term "plurality," as used in the asserted claims of the patents in suit, means "two or more;"

5. The term "not known to bind," as used in the asserted claims of the patents in suit, means "not known with scientific certainty to bind;"

6. As used in the asserted claims of the patents in suit, the first "incubating" step which results in the creation of a test combination does not require the test combination to be placed in a liquid solution or the conditions under which the screening method is carried out to be determined ahead of time;

7. To the extent that it is contained within the asserted claims of the patents in suit, the second "incubating" step which results in the creation of a control combination does not require the test and control conditions to be maintained under the same set of constant conditions which have been empirically determined ahead of

time so that any possible rate or level of protein unfolding can be conveniently measured and that the difference in the extent of this unfolding is optimized;

8. The term "extent," as used in the asserted claims of the patents in suit, means "amount" or, in the alternative, "degree;"

9. To the extent that it is contained within the asserted claims of the patents in suit, the "determining" step is not required to be carried out through one of the seven known methods of identification disclosed in the specifications; and

10. As used in the asserted claims of the patents in suit, the "comparing" step does not require there to be any difference in the extent of the target protein's folding in the test and control combinations.

D.Del.,1999.
Scriptgen Pharmaceuticals, Inc. v. 3-Dimensional Pharmaceuticals, Inc.