

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CHEMGENES CORPORATION. <i>Plaintiff</i>)	Civil Action: _____
)	
vs.)	JURY TRIAL DEMANDED
)	
HONGENE BIOTECHNOLOGY LTD., <i>Defendant</i>)	
)	
)	
)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff ChemGenes Corporation (“ChemGenes”) of Wilmington, Massachusetts, by its attorneys, for its complaint against Hongene Biotechnology Ltd. of Shanghai, China, and Union City, California (“Hongene”), alleges as follows:

Introduction

1. ChemGenes is a leading innovator in the field of oligonucleotide synthesis – the building of DNA and RNA molecules. Oligonucleotides are a vitally important part of the biotechnology industry in the United States and worldwide.
2. ChemGenes has invented and patented several highly specialized chemicals used for oligonucleotide synthesis, known as phosphoramidites, as well as methods for using these specialized chemicals to synthesize oligonucleotides. These inventions are described and claimed in at least ChemGenes’ United States Patent Nos. 8,309,707; 9,884,885; and 8,541,569 (collectively, “patents-in-suit”).
3. Hongene is infringing at least ChemGenes’ patents-in-suit by offering to sell in the United States, selling in the United States and/or importing into the United States at least 20 different phosphoramidites covered by the patents-in-suit.

4. In 2021, ChemGenes, through an agent, made contact with Hongene concerning four of the at least 20 phosphoramidites Hongene was offering on its website that are covered by the patents-in-suit, and was provided offers for sale for each of the four requested products. Hongene subsequently sold two of the four requested products to ChemGenes via ChemGenes' agent and delivered the infringing products to Massachusetts. Upon information and belief, prior to being delivered to Massachusetts, the infringing products were imported into the United States.

5. The acts of infringement of ChemGenes' patents-in-suit described herein, upon information and belief, are not isolated acts of infringement by Hongene, but the result of Hongene's systematic approach to advertising, offering for sale and selling in the United States and importing into the United States phosphoramidite products patented and exclusively owned by ChemGenes, which Hongene has no right to offer for sale or sell in the United States, or import into the United States. Upon information and belief, Hongene has and will continue to offer for sale and/or sell to other parties in the United States and/or import into the United States ChemGenes' phosphoramidites in violation of ChemGenes' patent rights.

PARTIES

6. Plaintiff ChemGenes is a corporation organized and existing under the laws of the Commonwealth of Massachusetts, having a principal place of business at 33 Industrial Way, Wilmington, Massachusetts 01887, United States.

7. On information and belief, Hongene Biotechnology Ltd., is a corporation organized and existing under the laws of China and having a principal place of business at 333 Gui Ping Road Shanghai, 200233, China.

8. On information and belief, Hongene Biotech Corporation, a corporation

organized and existing under the laws of the State of California and having a principal place of business at 29520 Kohoutek Way, Union City, CA 94587, is a wholly owned subsidiary of Hongene Biotechnology Ltd. Hongene Biotech Corporation is a general agent of Hongene Biotechnology Ltd. and its alter ego.

9. Hongene Biotech Corporation claimed in a May 2021 filing with the State of California that its Chief Executive Officer is based in Hongene Biotechnology Ltd.'s office in Shanghai. Hongene Biotechnology Ltd. described its California business as its branch office. Hongene Biotech Corporation is the alter ego of Hongene Biotechnology Ltd. and, upon information and belief, Hongene Biotech Corporation and Hongene Biotechnology Ltd. function and act as one and the same business entity and/or Hongene Biotech Corporation is the fully authorized general agent of Hongene Biotechnology Ltd. Hongene Biotech Corporation's activities in offering for sale, selling and/or receiving imports are fully controlled and directed by Hongene Biotechnology Ltd. Hongene Biotechnology Ltd.'s United States-based sales through its California entity give Hongene Biotechnology Ltd. substantially the business advantages it would have enjoyed if it conducted business in its own name. Hongene Biotechnology Ltd. and Hongene Biotech Corporation are collectively referred to herein as "Hongene."

JURISDICTION AND VENUE

10. This is a cause of action for patent infringement, which arises under the patent laws of United States, Title 35 United States Code, and for a declaratory judgment under the Declaratory Judgment Act, which arises under the laws of United States, Title 28 United States Code §§ 2201 and 2202.

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.

§§ 1331 to 1338(a) because the case involves federal question jurisdiction for claims under the Patent Laws and Declaratory Judgment Act.

12. This Court has personal jurisdiction over Hongene because, among other reasons, Hongene regularly does business in this District by offering for sale, importing and selling products to entities in this District, including to ChemGenes, as described in this complaint. Further, Hongene, upon information and belief regularly engages in marketing activities on this state through, *inter alia*, its participation at a conference known as “TIDES USA” that is held in Boston. Hongene also maintains internet websites readily accessible in this District directed to marketing, offering for sale, selling and advertising its products and services in the United States.

13. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) as to the Defendant in this District because it has directly or through its agent committed acts of patent infringement in this District, and venue is proper under 28 U.S.C. §§ 1391 and 1400 because Hongene is a foreign entity subject to personal jurisdiction in this District.

THE PATENTS-IN-SUIT

14. On November 13, 2012, the United States Patent and Trademark Office duly and lawfully issued United States Patent No. 8,309,707, titled, “RNA synthesis-phosphoramidites for synthetic RNA in the reverse direction, and application in convenient introduction of ligands, chromophores and modifications of synthetic RNA at the 3'-end” (the “’707 patent”) to ChemGenes as assignee of inventors Suresh C. Srivastava, Divya Pandey, Satya P. Bajpai, and Naveen P. Srivastava. A true and correct copy of the ’707 patent is attached as Exhibit A.

15. ChemGenes is the owner of the entire right, title and interest in the ’707 patent.

16. On September 24, 2013, the United States Patent and Trademark Office duly and

lawfully issued United States Patent No. 8,541,569 titled, “Phosphoramidites for synthetic RNA in the reverse direction, efficient RNA synthesis and convenient introduction of 3'-end ligands, chromophores and modifications of synthetic RNA” (the “’569 patent”) to ChemGenes as the assignee of inventors Suresh C. Srivastava and Naveen P. Srivastava. A true and correct copy of the ’569 patent is attached as Exhibit B.

17. ChemGenes is the owner of the entire right, title and interest in the ’569 patent.

18. On February 6, 2018, the United States Patent and Trademark Office duly and lawfully issued United States Patent No. 9,884,885, titled, “Synthesis of labile base protected-modified deoxy and modified ribo nucleosides, corresponding phosphoramidites and supports and their use in high purity oligonucleotide synthesis” (the “’885 patent”) to ChemGenes as assignee of inventors Suresh C. Srivastava and Naveen P. Srivastava. A true and correct copy of the ’885 patent is attached as Exhibit C.

19. ChemGenes is the owner of the entire right, title and interest in the ’885 patent.

ACTS GIVING RISE TO THIS ACTION

20. Hongene’s website (www.hongene.com) states that “Hongene Biotech Corporation was registered and established in 2001. It is a high-tech enterprise in Shanghai, which is dedicated to the research and development and production of nucleosides, nucleotides, modified nucleosides, gene monomers, targeted tracers. Having main operations in Shanghai, China at the start, today the company also has offices and laboratories in United States and Japan. Hongene supplies only the best quality products at competitive price to customers worldwide. Through collaborations with pharmaceutical diagnostic and biotechnology companies, Hongene is continuously developing new products in this area of science.”

21. Hongene’s website further states that Hongene has a research and production

facility based in Shanghai that is staffed with experienced scientists and an “independent phosphoramidites pilot/production building with 500 kg phosphoramidites annual capability.” It also claims it has a second large facility in Shanghai that includes “a phosphoramidite production area.”



22. Hongene’s website also states, “At Hongene, our experts are also happy to offer custom synthesis products essential for your R&D.”

23. Hongene’s website is, upon information and belief, intended to be a method to sell Hongene’s products worldwide, and it does sell products worldwide, including in the United States, where the website is fully accessible in English. Upon information and belief, Hongene has substantial United States sales. The Hongene website states that Hongene’s United States headquarters is based in California. The website provides Hongene’s telephone number and contact information for sales and shipping logistics. It also provides email contacts in the United States and China for sales: “Primary contact: product.info@hongene.com; Secondary contact: sales@hongeneusa.com; China Mainland Contact: sales@hongene.com.”

24. In 2021, through an agent, ChemGenes requested information about Hongene’s

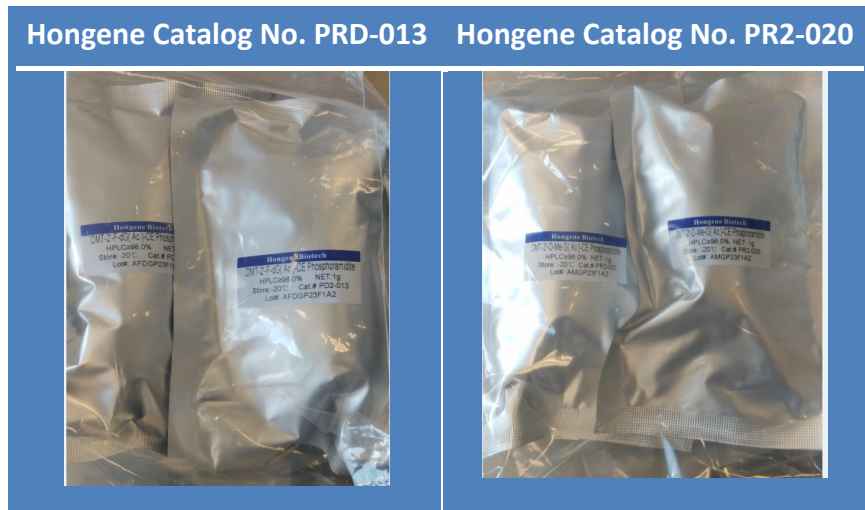
website Catalog Nos. PD2-013 (also referred to herein as Hongene Product A-1), PD2-020 (also referred to herein as Hongene Product B-1), PR5-043 (also referred to herein as Hongene Product C-1) and PR3-059 (also referred to herein as Hongene Product C-2). The agent was advised by an employee of Hongene in California that he would “send the quotation over from Shanghai side once available.” Shortly thereafter, the agent received a written quotation sent to Massachusetts by the Hongene employee in California. The quotation listed a quantity and associated price for each requested product.

25. In June 2021, the agent ordered Hongene Products A-1 and B-1.

26. In June 2021, the agent received an invoice for the order from a Hongene employee in Shanghai, China, and paid Hongene the invoiced amount, for which the agent received a payment receipt from Hongene.

27. In or about July 2021, upon information and belief, Hongene Products A-1 and B-1 were imported into the United States, and in July 2021, were delivered to ChemGenes’ agent in Massachusetts.

28. Photographs of Hongene Products A-1 and B-1 delivered to ChemGenes by its agent in Massachusetts are as follows:



29. The customer interface on Hongene’s website, on information and belief, is optimized to facilitate Hongene to offer for sale and/or sell its products through the familiar online device of “add to cart.” For example, here is an image of the webpage for Hongene Catalog No. OP-043, not at issue in this suit:

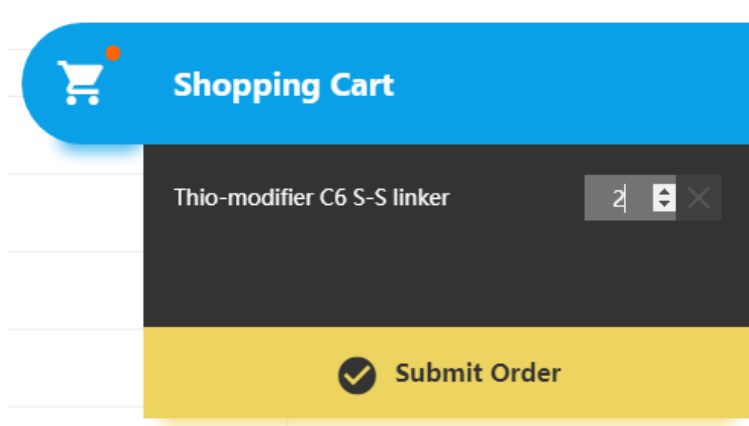
Catalog Number	OP-043
Molecular Weight	769.05
Appearance	Clear colorless to yellow oil
Storage	-20°C
Molecular Formula	$C_{12}H_{11}N_2O_5S_2P$
CAS Number	N/A
Purity	HPLC ≥98%

Add To Cart

 Consulting

30. Hongene’s website also makes use of, on information and belief, the familiar online feature of a “shopping cart” to “Submit Order.” The “Shopping Cart” contains a feature to let a customer specify unit quantity of a product it seeks. For example, here is an image of the

shopping cart feature and “Submit Order” button on the webpage for Hongene Catalog No. OP-043:



31. Upon clicking the “Submit Order” button, Hongene’s website takes the customer to the “order submission” form. That form, upon information and belief, allows, *inter alia*, communication with Hongene sales personnel to “request a quote for custom synthesis or bulk orders.”

32. Upon information and belief, including the structure and purpose of Hongene’s website, Hongene’s United States sales office and staff, Hongene’s ability to make and ship phosphoramidite products, Hongene’s specialized allocation of factory resources and scientists to make phosphoramidites, Hongene’s known practice of selling its products to parties in the United States, including ChemGenes’ agent, and Hongene’s conduct of offering to sell Hongene Products A-1, B-1, C-1 and C-2 to ChemGenes’ agent, its sale of Hongene Products A-1 and B-1 to ChemGenes’ agent and, on information and belief, its importation into the United States of Hongene Products A-1 and B-1 (collectively, the “Hongene Sales System”), Hongene has made offers for sale and/or sold in the United States, and/or imported into the United States at least the Hongene products identified herein in violation of ChemGenes’ patent rights.

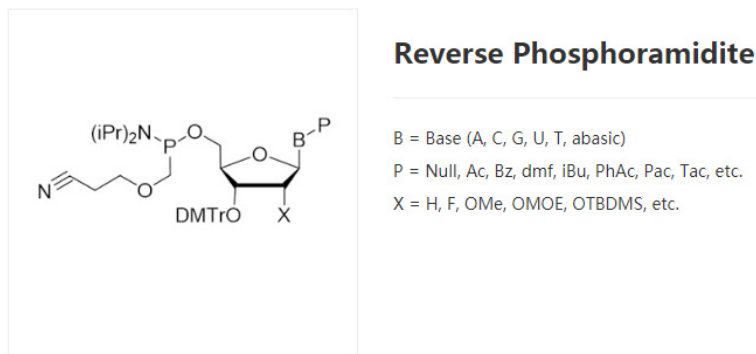
INFRINGING PRODUCTS

33. Upon information and belief, Hongene’s website provides a listing of products that Hongene offers for sale and/or sells. Under the category of “Product” on Hongene’s website is the sub-category of “Synthesis Blocks.” “Phosphoramidites” are found within the “Synthesis Blocks” sub-category, and are themselves further divided into the following “Classifications” of particular relevance to this suit:

- a. 2'-Fluoro Phosphoramidites;
- b. 2'-O-Me Phosphoramidites; and
- c. Reverse Phosphoramidites.

34. Hongene’s website provides “General structures for Phosphoramidites” on its website, including Reverse Phosphoramidites.

35. The general structure for Reverse Phosphoramidites appearing on Hongene’s website is:



36. The infringing Hongene products appearing on Hongene’s website are listed in the table below by Hongene Catalog No. and long product name on the Hongene website. The Hongene Products listed in the table are not compounds invented by Hongene. Each Hongene Product listed in the table is a compound invented by ChemGenes, patented by ChemGenes and exclusively owned by ChemGenes under one or more of the patents-in-suit. Hongene has no

authority to, *inter alia*, make any of these Hongene Products, offer these Hongene Products for sale and/or sell these Hongene Products in the United States, or import these Hongene Products into the United States.

37. Solely for purposes of organizing information in this complaint, the infringing Hongene products listed in the table below will be referred to herein by the Hongene Product Identifier listed in the table below.

Hongene Product Identifier	Hongene Catalog Number	Hongene Long Product Name
		2'-Fluoro Phosphoramidite
A-1	PD2-013	N2-Acetyl -5'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-2'-deoxyguanosine-3'-cyanoethyl Phosphoramidite
		2'-O-Me Phosphoramidites
B-1	PR2-020	N2-Acetyl -5'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-guanosine-3'-cyanoethyl Phosphoramidite
B-2	PR3-003	N4-Acetyl-5-methyl-5'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-cytidine-3'-cyanoethyl Phosphoramidite
B-3	PR3-001	N4-Acetyl-5'-O-(4, 4'-Dimethoxytrityl)-2'-O-methyl-Cytidine-3'-CE-Phosphoramidite
		Reverse Phosphoramidites
C-1	PR5-043	3'-O-(4,4'-dimethoxytrityl)-2'-O-(t-butyl-dimethylsilyl)-uridine-5'-cyanoethyl-Phosphoramidite
C-2	PR3-059	N4-acetyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-(t-butyl-dimethylsilyl)-cytidine-5'-cyanoethyl-Phosphoramidite
C-3	PR2-054	N2-isobutyryl-3'-O-(4,4'-dimethoxytrityl)-2'-O-(t-butyl-dimethylsilyl)-guanosine-5'-cyanoethyl-Phosphoramidite
C-4	PR1-061	N6-benzoyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-(t-butyl-dimethylsilyl)-adenosine-5'-cyanoethyl-Phosphoramidite

C-5	PD5-006	3'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-deoxyuridine-5'-cyanoethyl Reverse Phosphoramidite
C-6	PD3-012	N4-acetyl-3'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-deoxycytidine-5'-cyanoethyl Reverse Phosphoramidite
C-7	PD2-009	N2-isobutyryl-3'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-deoxyguanosine-5'-cyanoethyl Reverse Phosphoramidite
C-8	PD1-012	N6-benzoyl-3'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-deoxyadenosine-5'-cyanoethyl Reverse Phosphoramidite
C-9	PR5-021	5-methyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-methoxyethyl-uridine-5'-cyanoethyl Phosphoramidite
C-10	PR2-026	N2-isobutyryl-3'-O-(4,4'-dimethoxytrityl)-2'-O-methoxyethyl-guanosine-5'-cyanoethyl Phosphoramidite
C-11	PR3-028	N4-benzoyl-5-methyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-methoxyethyl-cytidine-5'-cyanoethyl Phosphoramidite
C-12	PR1-021	N6-benzoyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-methoxyethyl-adenosine-5'-cyanoethyl Phosphoramidite
C-13	PR5-027	3'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-uridine-5'-cyanoethyl Phosphoramidite
C-14	PR3-034	N4-acetyl-3'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-cytidine-5'-cyanoethyl Phosphoramidite
C-15	PR2-034	N2-isobutyryl-3'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-guanosine-5'-cyanoethyl Phosphoramidite
C-16	PR1-029	N6-benzoyl-3'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-adenosine-5'-cyanoethyl Phosphoramidite

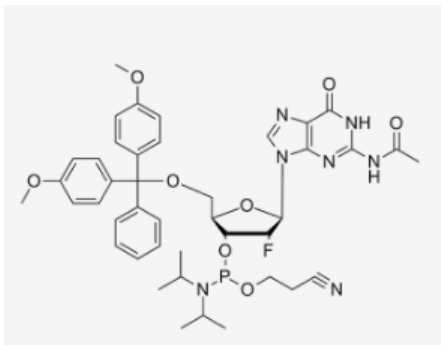
2'-Fluoro Phosphoramidites Classification

HONGENE PRODUCT A-1

38. Hongene's website refers to Hongene Product A-1 by Catalog No. PD2-013,

long product name N2-acetyl -5'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-2'-deoxyguanosine-3'-cyanoethyl Phosphoramidite and abbreviated product name DMT-2'-F-dG(Ac)-CE-Phosphoramidite.

39. Hongene's website provides a structural formula for Hongene Product A-1. The structural formula for Hongene Product A-1 appearing on Hongene's website is:



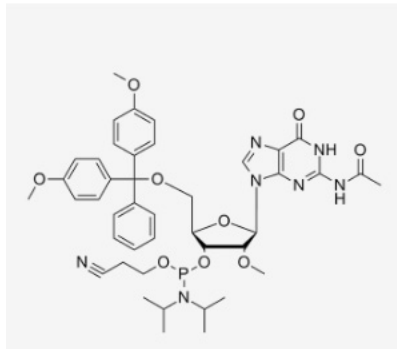
40. The webpage for Hongene Product A-1 has the "add to cart" button and a link to the "shopping cart" feature where a customer can specify the number of units it seeks and "submit order."

2'- O-Me Phosphoramidites Classification -Products B-1, B-2 and B-3

HONGENE PRODUCT B-1

41. Hongene's website refers to Hongene Product B-1 by Catalog No. PR2-020, long product name N2-Acetyl-5'-O-(4,4'-dimethoxytrityl)-2'-O-methyl-guanosine-3'-cyanoethyl phosphoramidite and abbreviated product name DMT-2'-O-Me-G(Ac)-CE-Phosphoramidite.

42. Hongene's website provides a structural formula for Hongene Product B-1. The structural formula for Hongene Product B-1 appearing on Hongene's website is:

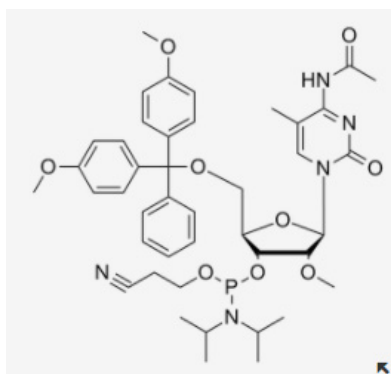


43. The webpage for Hongene Product B-1 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT B-2

44. Hongene’s website refers to Hongene Product B-2 by Catalog No. PR3-003, long product name N4-acetyl-5-methyl-5'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-cytidine-3'-cyanoethyl Phosphoramidite and abbreviated product name 5-Me-DMT-2'-O-Me-C(Ac)-CE Phosphoramidite.

45. Hongene’s website provides a structural formula for Hongene Product B-2. The structural formula for Hongene Product B-2 appearing on Hongene’s website is:

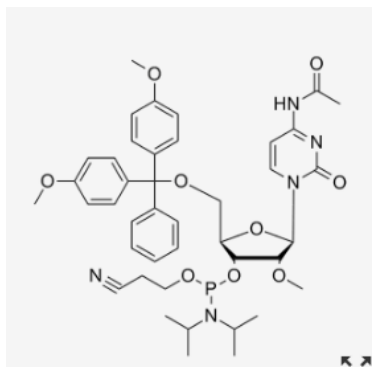


46. The webpage for Hongene Product B-2 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT B-3

47. Hongene's website refers to Hongene Product B-3 by Catalog No. PR3-001, long product name N4-acetyl-5'-O-(4, 4'-Dimethoxytrityl)-2'-O-methyl-Cytidine-3'-CE-Phosphoramidite and abbreviated product name 2'-OMe-Ac-C-CE-Phosphoramidite.

48. Hongene's website provides a structural formula for Hongene Product B-3. The structural formula for Hongene Product B-3 appearing on Hongene's website is:



49. The webpage for Hongene Product B-3 has the "add to cart" button and a link to the "shopping cart" feature where a customer can specify the number of units it seeks and "submit order."

Reverse Phosphoramidites Classification - Products C-1 to C-16

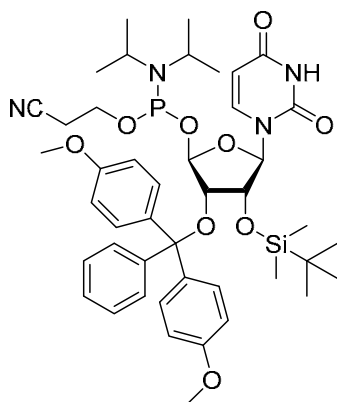
HONGENE PRODUCT C-1

50. Hongene's website refers to Hongene Product C-1 by Catalog No. PR5-043, long product name 3'-O-(4,4'-dimethoxytrityl)-2'-O-(t-butyl-dimethylsilyl)-uridine-5'-cyanoethyl-Phosphoramidite and abbreviated product name 3'-DMT-2'-O-TBDMS-U-5'-CE-Phosphoramidite.

51. Hongene's website provides a structural formula on its web page for Hongene Product C-1, but that structural formula does not correspond to either the long product name or the abbreviated product name Hongene's website uses to refer to Hongene Product C-1, or the

classification of Reverse Phosphoramidites under which Hongene Product C-1 is classified on Hongene's website.

52. On information and belief, based on the general structure for a reverse phosphoramidite provided on Hongene's website and the long and abbreviated product names Hongene's website uses to refer to Hongene Product C-1, the structural formula for Hongene Product C-1 is:



53. The webpage for Hongene Product C-1 has the "add to cart" button and a link to the "shopping cart" feature where a customer can specify the number of units it seeks and "submit order."

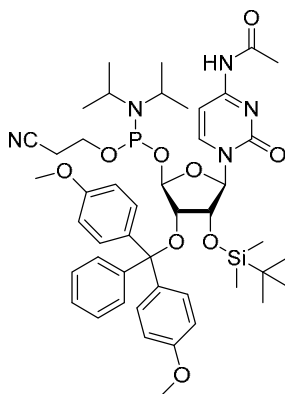
HONGENE PRODUCT C-2

54. Hongene's website refers to Hongene Product C-1 by Catalog No. PR3-059, long product name N4-acetyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-(t-butyl-dimethylsilyl)-cytidine-5'-cyanoethyl-Phosphoramidite and abbreviated product name 3'-DMT-2'-O-TBDMS-C(Ac)-5'-CE-Phosphoramidite.

55. Hongene's website provides a structural formula on its web page for Hongene Product C-2, but that structural formula does not correspond to either the long product name or the abbreviated product name Hongene's website uses to refer to Hongene Product C-2, or the

classification of Reverse Phosphoramidites under which Hongene Product C-2 is classified on Hongene's website.

56. On information and belief, based on the general structure for a reverse phosphoramidite provided on Hongene's website and the long and abbreviated product names Hongene's website uses to refer to Hongene Product C-2, the structural formula for Hongene Product C-2 is:



57. The webpage for Hongene Product C-2 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

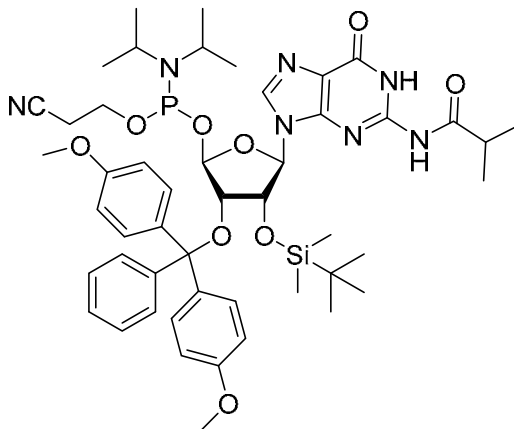
HONGENE PRODUCT C-3

58. Hongene's website refers to Hongene Product C-3 by Catalog No. PR2-054, long product name N2-isobutyryl-3'-O-(4,4'-dimethoxytrityl)-2'-O-(t-butyl-dimethylsilyl)-guanosine-5'-cyanoethyl-Phosphoramidite and abbreviated product name 3'-DMT-2'-O-TBDMS-G(iBu)-5'-CE-Phosphoramidite.

59. Hongene's website provides a structural formula on its web page for Hongene Product C-3, but that structural formula does not correspond to either the long product name or the abbreviated product name Hongene's website uses to refer to Hongene Product C-3, or the classification of Reverse Phosphoramidites under which Hongene Product C-3 is classified on

Hongene's website.

60. On information and belief, based on the general structure for a reverse phosphoramidite provided on Hongene's website and the long and abbreviated product names Hongene's website uses to refer to Hongene Product C-3, the structural formula for Hongene Product C-3 is:



61. The webpage for Hongene Product C-3 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

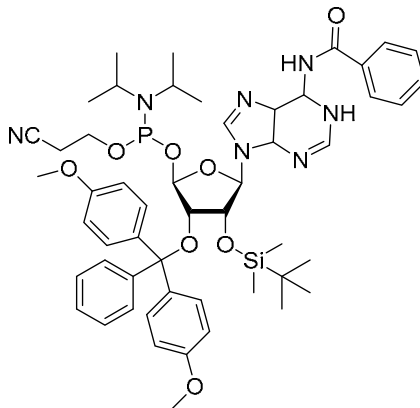
HONGENE PRODUCT C-4

62. Hongene's website refers to Hongene Product C-4 by Catalog No. PR1-061, long product name N6-benzoyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-(t-butyl-dimethylsilyl)-adenosine-5'-cyanoethyl-Phosphoramidite and abbreviated product name 3'-DMT-2'-O-TBDMS-A(Bz)-5'-CE-Phosphoramidite.

63. Hongene's website provides a structural formula on its web page for Hongene Product C-4, but that structural formula does not correspond to either the long product name or the abbreviated product name Hongene's website uses to refer to Hongene Product C-4, or the classification of Reverse Phosphoramidites under which Hongene Product C-4 is classified on

Hongene's website.

64. On information and belief, based on the general structure for a reverse phosphoramidite provided on Hongene's website and the long and abbreviated product names Hongene's website uses to refer to Hongene Product C-4, the structural formula for Hongene Product C-4 is:

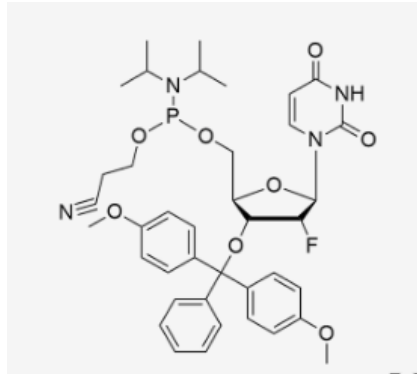


65. The webpage for Hongene Product C-4 has the "add to cart" button and a link to the "shopping cart" feature where a customer can specify the number of units it seeks and "submit order."

HONGENE PRODUCT C-5

66. Hongene's website refers to Hongene Product C-5 by Catalog No. PD5-006, long product name 3'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-deoxyuridine-5'-cyanoethyl Reverse Phosphoramidite and abbreviated product name 3'-DMT-2'-F-dU-CE Reverse Phosphoramidite.

67. Hongene's website provides a structural formula for Hongene Product C-5. The structural formula for Hongene Product C-5 appearing on Hongene's website is:

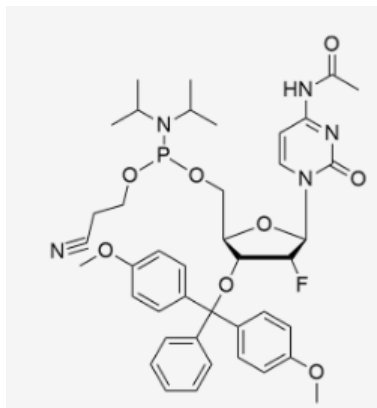


68. The webpage for Hongene Product C-5 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-6

69. Hongene’s website refers to Hongene Product C-6 by Catalog No. PD3-012, long product name N4-acetyl-3'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-deoxycytidine-5'-cyanoethyl Reverse Phosphoramidite and abbreviated product name N4-Ac-3'-DMT-2'-F-dC-CE Reverse Phosphoramidite.

70. Hongene’s website provides a structural formula for Hongene Product C-6. The structural formula for Hongene Product C-6 appearing on Hongene’s website is:



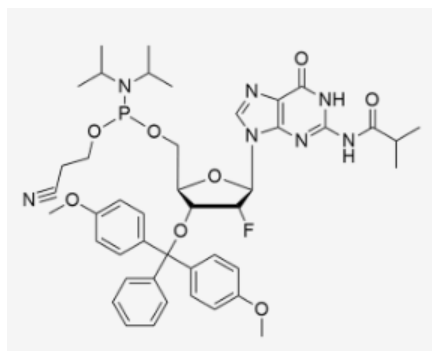
71. The webpage for Hongene Product C-6 has the “add to cart” button and a link to

the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.

HONGENE PRODUCT C-7

72. Hongene’s website refers to Hongene Product C-7 by Catalog No. PD2-009, long product name N2-isobutyryl-3'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-deoxyguanosine-5'-cyanoethyl Reverse Phosphoramidite and abbreviated product name N2-iBu-3'-DMT-2'-F-dG-CE Reverse Phosphoramidite.

73. Hongene’s website provides a structural formula for Hongene Product C-7. The structural formula for Hongene Product C-7 appearing on Hongene’s website is:



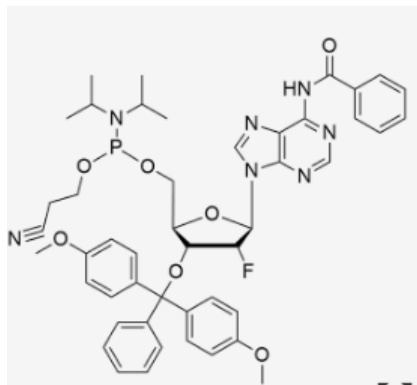
74. The webpage for Hongene Product C-7 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-8

75. Hongene’s website refers to Hongene Product C-8 by Catalog No. PD1-012, long product name N6-benzoyl-3'-O-(4, 4'-dimethoxytrityl)-2'-fluoro-deoxyadenosine-5'-cyanoethyl Reverse Phosphoramidite and abbreviated product name N6-Bz-3'-DMT-2'-F-dA-CE Reverse Phosphoramidite.

76. Hongene’s website provides a structural formula for Hongene Product C-8. The

structural formula for Hongene Product C-8 appearing on Hongene's website is:

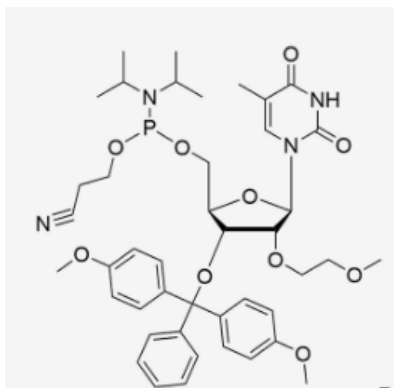


77. The webpage for Hongene Product C-8 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-9

78. Hongene's website refers to Hongene Product C-9 by Catalog No. PR5-021, long product name 5-methyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-methoxyethyl-uridine-5'-cyanoethyl Phosphoramidite and abbreviated product name DMT-2'-O-MOE-T-CE Reverse Phosphoramidite.

79. Hongene's website provides a structural formula for Hongene Product C-9. The structural formula for Hongene Product C-9 appearing on Hongene's website is:

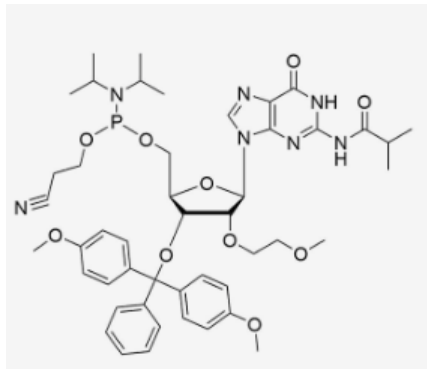


80. The webpage for Hongene Product C-9 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-10

81. Hongene’s website refers to Hongene Product C-10 by Catalog No. PR2-026, long product name N2-isobutyryl-3'-O-(4,4'-dimethoxytrityl)-2'-O-methoxyethyl-guanosine-5'-cyanoethyl Phosphoramidite and abbreviated product name DMT-2'-O-MOE-G(iBu)-CE Reverse Phosphoramidite.

82. Hongene’s website provides a structural formula for Hongene Product C-10. The structural formula for Hongene Product C-10 appearing on Hongene’s website is:



83. The webpage for Hongene Product C-10 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

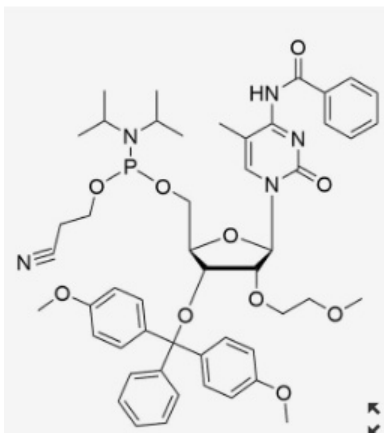
HONGENE PRODUCT C-11

84. Hongene’s website refers to Hongene Product C-11 by Catalog No. PR3-028, long product name N4-benzoyl-5-methyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-methoxyethyl-cytidine-5'-cyanoethyl Phosphoramidite and abbreviated product name 5-Me-DMT-2'-O-MOE-

C(Bz)-CE Reverse Phosphoramidite.

85. Hongene's website provides a structural formula for Hongene Product C-11.

The structural formula for Hongene Product C-11 appearing on Hongene's website is:



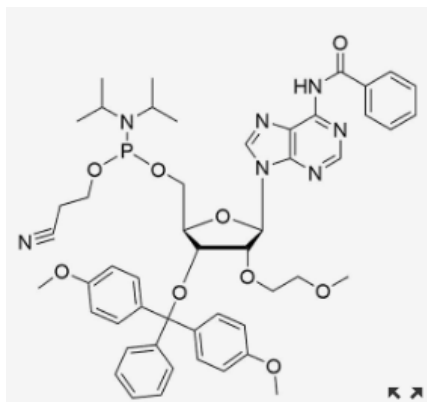
86. The webpage for Hongene Product C-11 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-12

87. Hongene's website refers to Hongene Product C-12 by Catalog No. PR1-021, long product name N6-benzoyl-3'-O-(4,4'-dimethoxytrityl)-2'-O-methoxyethyl-adenosine-5'-cyanoethyl Phosphoramidite and abbreviated product name DMT-2'-O-MOE-A(Bz)-CE Reverse Phosphoramidite.

88. Hongene's website provides a structural formula for Hongene Product C-12.

The structural formula for Hongene Product C-12 appearing on Hongene's website is:

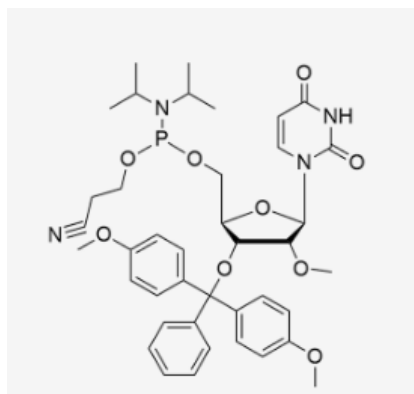


89. The webpage for Hongene Product C-12 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-13

90. Hongene’s website refers to Hongene Product C-13 by Catalog No. PR5-027, long product name 3'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-uridine-5'-cyanoethyl Phosphoramidite and abbreviated product name 3'-DMT-2'-OMe-Ur-CE Reverse Phosphoramidite.

91. Hongene’s website provides a structural formula for Hongene Product C-13. The structural formula for Hongene Product C-13 appearing on Hongene’s website is:



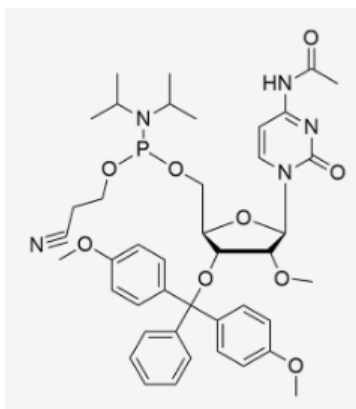
92. The webpage for Hongene Product C-13 has the “add to cart” button and a link

to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-14

93. Hongene’s website refers to Hongene Product C-14 by Catalog No. PR3-034, long product name N4-acetyl-3'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-cytidine-5'-cyanoethyl Phosphoramidite and abbreviated product name N4-Ac-3'-DMT-2'-OMe-Cr-CE Reverse Phosphoramidite.

94. Hongene’s website provides a structural formula for Hongene Product C-14. The structural formula for Hongene Product C-14 appearing on Hongene’s website is:



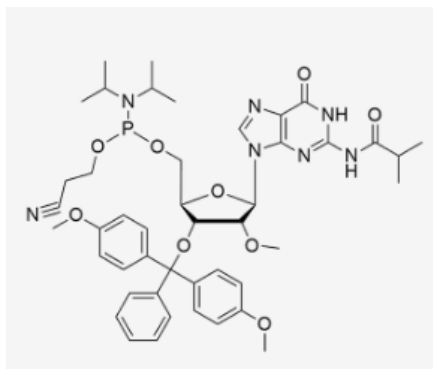
95. The webpage for Hongene Product C-14 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-15

96. Hongene’s website refers to Hongene Product C-15 by Catalog No. PR2-034, long product name N2-isobutyryl-3'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-guanosine-5'-cyanoethyl Phosphoramidite and abbreviated product name N2-iBu-3'-DMT-2'-OMe-Gr-CE Reverse Phosphoramidite.

97. Hongene's website provides a structural formula for Hongene Product C-15.

The structural formula for Hongene Product C-15 appearing on Hongene's website is:

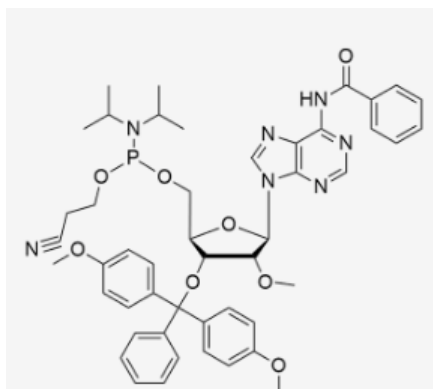


98. The webpage for Hongene Product C-15 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

HONGENE PRODUCT C-16

99. Hongene's website refers to Hongene Product C-16 by Catalog No. PR1-029, long product name N6-benzoyl-3'-O-(4, 4'-dimethoxytrityl)-2'-O-methyl-adenosine-5'-cyanoethyl Phosphoramidite and abbreviated product name N6-Bz-3'-DMT-2'-OMe-Ar-CE Reverse Phosphoramidite.

100. Hongene's website provides a structural formula for Hongene Product C-16. The structural formula for Hongene Product C-16 appearing on Hongene's website is:



101. The webpage for Hongene Product C-16 has the “add to cart” button and a link to the “shopping cart” feature where a customer can specify the number of units it seeks and “submit order.”

COUNT 1: INFRINGEMENT OF THE '885 PATENT

(Hongene Products A-1 and B-1)

102. ChemGenes hereby incorporates by reference its allegations contained before and after this paragraph of the Complaint as though fully set forth herein.

103. Claim 2 of the '885 covers Hongene Product A-1. A comparison of claim 2 with the chemical name and structural formula of Hongene Product A-1 on Hongene's website shows that Hongene Product A-1 contains the required structure and substituents of a phosphoramidite of claim 2 of the '885 patent.

104. Claim 1 of the '885 patent covers Hongene Product B-1. A comparison of claim 1 with the chemical name and structural formula of Hongene Product B-1 on Hongene's website shows that Hongene Product B-1 contains the required structure and substituents of a phosphoramidite of claim 1 of the '885 patent.

105. Hongene has infringed and, upon information and belief, including Hongene's use of the Hongene Sales System, continues to infringe, either literally or under the doctrine of equivalents, at least one claim of the '885 patent, including claims 1 and 2, pursuant to 35 U.S.C. § 271(a), by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States Hongene Products A-1 and B-1.

106. As an apparently sophisticated company selling chemical products worldwide, Hongene, upon information and belief, did or should have had knowledge of the '885 patent and knew or should have known it lacked the legal right to offer for sale, sell, use or make in

the United States, or import into the United States Hongene Products A-1 and B-1. Hongene continues to intentionally and willfully infringe at least claims 1 and 2 of the '885 patent, or, at the very least, act with willful blindness and/or reckless disregard of ChemGenes' patent rights. As a result, ChemGenes is entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284 and 285. As a result of Hongene's unlawful infringement of the '885 patent, ChemGenes has and will continue to suffer damages. ChemGenes is entitled to recover from Hongene the damages adequate to compensate for such infringement, which damages have yet to be determined, and is further entitled to injunctive relief to stop future infringement or advertisement or promotion of a product Hongene has no right to sell.

COUNT 2: INFRINGEMENT OF THE '885 PATENT

(Hongene Products B-2 and B-3)

107. ChemGenes hereby incorporates by reference its allegations contained before and after this paragraph of the Complaint as though fully set forth herein.

108. Claim 1 of the '885 patent covers Hongene Products B-2 and B-3. A comparison of claim 1 with the chemical names and structural formulas of Hongene Products B-2 and B-3 on Hongene's website shows that each of Hongene Products B-2 and B-3 contains the required structure and substituents of a phosphoramidite of claim 1 of the '885 patent.

109. Upon information and belief, including Hongene's use of the Hongene Sales System, Hongene has infringed and continues to infringe, either literally or under the doctrine of equivalents, at least one claim of the '885 patent, including claim 1, pursuant to 35 U.S.C. § 271(a), by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States Hongene Products B-2 and B-3.

110. As an apparently sophisticated company selling chemical products worldwide, Hongene, upon information and belief, did or should have had knowledge of the '885 patent and knew or should have known it lacked the legal right to offer for sale, sell, use or make in the United States, or import into the United States Hongene Products B-2 and B-3. Hongene continues to intentionally and willfully infringe at least claim 1 of the '885 patent, or, at the very least, act with willful blindness and/or reckless disregard of ChemGenes' patent rights. As a result, ChemGenes is entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284 and 285. As a result of Hongene's unlawful infringement of the '885 patent, ChemGenes has and will continue to suffer damages. ChemGenes is entitled to recover from Hongene the damages adequate to compensate for such infringement, which damages have yet to be determined, and is further entitled to injunctive relief to stop future infringement or advertisement or promotion of a product Hongene has no right to sell.

COUNT 3: INFRINGEMENT OF THE '707 PATENT

(Hongene Products C-1 and C-2)

111. ChemGenes hereby incorporates by reference its allegations contained before and after this paragraph of the Complaint as though fully set forth herein.

112. Claim 1 of the '707 patent covers Hongene Products C-1 and C-2. A comparison of claim 1 with the chemical names and general structure of reverse phosphoramidite for Hongene Products C-1 and C-2 on Hongene's website shows that each of Hongene Products C-1 and C-2 contains the required structure and substituents of a phosphoramidite of claim 1 of the '707 patent.

113. Hongene has infringed and, upon information and belief, including Hongene's

use of the Hongene Sales System, continues to infringe, either literally or under the doctrine of equivalents, at least one claim of the '707 patent, including claim 1, pursuant to 35 U.S.C. § 271(a) by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States Hongene Products C-1 and C-2.

114. As an apparently sophisticated company selling chemical products worldwide, Hongene, upon information and belief, did or should have had knowledge of the '707 patent and knew or should have known it lacked the legal right to offer for sale, sell, use or make in the United States, or import into the United States Hongene Products C-1 and C-2. Hongene continues to intentionally and willfully infringe at least claim 1 of the '707 patent, or, at the very least, act with willful blindness and/or reckless disregard of ChemGenes' patent rights. As a result, ChemGenes is entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284 and 285. As a result of Hongene's unlawful infringement of the '707 patent, ChemGenes has and will continue to suffer damages. ChemGenes is entitled to recover from Hongene the damages adequate to compensate for such infringement, which damages have yet to be determined, and is further entitled to injunctive relief to stop future infringement or advertisement or promotion of a product Hongene has no right to sell.

COUNT 4: INFRINGEMENT OF THE '707 PATENT

(Hongene Products C-3 C-4, C-5, C-6, C-7 and C-8)

115. ChemGenes hereby incorporates by reference its allegations contained before and after this paragraph of the Complaint as though fully set forth herein.

116. Claim 1 of the '707 patent covers Hongene Products C-3, C-4, C-5, C-6, C-7 and C-8. A comparison of claim 1 with the chemical names and structural formulas of Hongene

Products C-3, C-4, C-5, C-6, C-7 and C-8 on Hongene's website shows that each of Hongene Products C-3, C-4, C-5, C-6, C-7 and C-8 contains the required structure and substituents of a phosphoramidite of claim 1 of the '707 patent.

117. Upon information and belief, including Hongene's use of the Hongene Sales System, Hongene has infringed and continues to infringe, either literally or under the doctrine of equivalents, at least one claim of the '707 patent, including claim 1, pursuant to 35 U.S.C. § 271(a) by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States any one or more of Hongene Products C-3, C-4, C-5, C-6, C-7 and C-8.

118. As an apparently sophisticated company selling chemical products worldwide, Hongene, upon information and belief, did or should have had knowledge of the '707 patent and knew or should have known it lacked the legal right to offer for sale, sell, use or make in the United States, or import into the United States Hongene Products C-3, C-4, C-5, C-6, C-7 and C-8. Hongene continues to intentionally and willfully infringe at least claim 1 of the '707 patent, or, at the very least, act with willful blindness and/or reckless disregard of ChemGenes' patent rights. As a result, ChemGenes is entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284 and 285. As a result of Hongene's unlawful infringement of the '707 patent, ChemGenes has and will continue to suffer damages. ChemGenes is entitled to recover from Hongene the damages adequate to compensate for such infringement, which damages have yet to be determined, and is further entitled to injunctive relief to stop future infringement or advertisement or promotion of a product Hongene has no right to sell.

COUNT 5: INFRINGEMENT OF THE '569 PATENT

(Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16)

119. ChemGenes hereby incorporates by reference its allegations contained before and after this paragraph of the Complaint as though fully set forth herein.

120. Claim 1 of the '569 patent covers and claims Hongene Product C-9. A comparison of claim 1 with the chemical name and structural formula of Hongene Products C-9 on Hongene's website shows that Hongene Product C-9 contains the required structure and substituents of a phosphoramidite of claim 1 of the '569 patent.

121. Claim 2 of the '569 patent covers and claims Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16. A comparison of claim 2 with the chemical names and structural formulas of Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 on Hongene's website shows that each of Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 contains the required structure and substituents of a phosphoramidite of claim 2 of the '569 patent.

122. Upon information and belief, including Hongene's use of the Hongene Sales System, Hongene has infringed and continues to infringe, either literally or under the doctrine of equivalents, at least one claim of the '569 patent, including claims 1 and 2, pursuant to 35 U.S.C. § 271 (a) by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States any of Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16.

123. As an apparently sophisticated company selling chemical products worldwide, Hongene, upon information and belief, did or should have had knowledge of the '569 patent and knew or should have known it lacked the legal right to offer for sale, sell, use or make in

the United States, or import into the United States Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16. Hongene continues to intentionally and willfully infringe at least claim 2 of the '569 patent, or, at the very least, act with willful blindness and/or reckless disregard of ChemGenes' patent rights. As a result, ChemGenes is entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284 and 285. As a result of Hongene's unlawful infringement of the '569 patent, ChemGenes has and will continue to suffer damages. ChemGenes is entitled to recover from Hongene the damages adequate to compensate for such infringement, which damages have yet to be determined, and is further entitled to injunctive relief to stop future infringement or advertisement or promotion of a product Hongene has no right to sell.

COUNT 6: DECLARATORY JUDGMENT OF INFRINGEMENT OF THE '885

PATENT

(Hongene Products A-1, B-1, B-2 and B-3)

124. ChemGenes hereby incorporates by reference its allegations contained before and after this paragraph of the Complaint as though fully set forth herein.

125. This declaratory judgment claim arises under the United States Patent Laws, 35 U.S.C. §§ 100 et seq., including 35 U.S.C. § 271(a), (b), or (c), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

126. There is an actual case or controversy such that the Court may entertain Plaintiff's request for declaratory relief consistent with Article III of the United States Constitution, and that actual case or controversy requires a declaration of rights by this Court.

127. Hongene presently infringes the '885 patent and further engages in conduct or has taken concrete steps intending to engage in activities that would infringe the '885 patent

through promotion, offers for sale, sales, manufacture and importation of Hongene Products A-1, B-1, B-2 and B-3.

128. Claim 2 of the '885 patent covers Hongene Product A-1. A comparison of claim 2 with the chemical name and structural formula of Hongene Product A-1 on Hongene's website shows that Hongene Product A-1 contains the required structure and substituents of a phosphoramidite of claim 2 of the '885 patent.

129. Claim 1 of the '885 patent covers Hongene Products B-1, B-2 and B-3. A comparison of claim 1 with the chemical names and structural formulas of Hongene Products B-1, B-2 and B-3 on Hongene's website shows that each of Hongene Products B-1, B-2 and B-3 contains the required structure and substituents of a phosphoramidite of claim 1 of the '885 patent.

130. Upon information and belief, including Hongene's use of the Hongene Sales System, Hongene has and will continue with respect to Hongene Products A-1, B-1, B-2 and B-3 to market, advertise, make offers for sale and sales, manufacture and import Hongene Products A-1, B-1, B-2 and B-3 in violation of ChemGenes' patent rights.

131. Hongene's sales and the Hongene Sales System create an actual, immediate, and real controversy under the Declaratory Judgment Act that Hongene will through the making, offering for sale, selling, importing, marketing and advertising of Hongene Products A-1, B-1, B-2 and B-3 directly infringe valid and enforceable claims of the '885 patent before its expiration in violation of 35 U.S.C. § 271(a), as alleged above and incorporated by reference herein.

132. Hongene's sale, offer for sale, and/or importation of Hongene Products A-1, B-1, B-2 and B-3 directly and/or indirectly infringes one or more claims of the '885 patent literally

and/or under the doctrine of equivalents, as alleged above and incorporated by reference herein. Furthermore, Hongene's infringement is and has been willful, as alleged above and incorporated by reference herein. Hongene's infringement has caused significant damages to Plaintiff.

133. Upon information and belief, Hongene is currently manufacturing and/or has the full and current ability to use sophisticated factories in Shanghai, China to immediately manufacture any of Hongene Products A-1, B-1, B-2 and B-3, and has the full and current ability to immediately ship and import Hongene Products A-1, B-1, B-2 and B-3 into the United States, and/or imminently will manufacture and supply Hongene Products A-1, B-1, B-2 and B-3 to the United States. Hongene is marketing Hongene Products A-1, B-1, B-2 and B-3, intends to market Hongene Products A-1, B-1, B-2 and B-3 and will market Hongene Products A-1, B-1, B-2 and B-3, within this District and elsewhere in the United States.

134. Upon information and belief, Hongene and/or a third party acting in concert with Hongene are importing and/or imminently will import Hongene Products A-1, B-1, B-2 and B-3 into the United States.

135. Upon information and belief, Hongene has engaged in and will continue to engage in substantial activities in preparation to market Hongene Products A-1, B-1, B-2 and B-3 in the United States.

136. A judicial declaration of infringement is necessary and appropriate to resolve this controversy.

137. Plaintiff will be substantially and irreparably harmed if Hongene is not enjoined from infringing the '885 patent for any and all products.

138. Plaintiff has no adequate remedy at law.

139. This case is exceptional, and Plaintiff is entitled to an award of attorneys' fees under 35 U.S.C. § 285.

COUNT 7: DECLARATORY JUDGMENT OF INFRINGEMENT OF THE '707

PATENT

(Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8)

140. ChemGenes hereby incorporates by reference its allegations contained before and after this paragraph of the Complaint as though fully set forth herein.

141. This declaratory judgment claim arises under the United States Patent Laws, 35 U.S.C. §§ 100 et seq., including 35 U.S.C. § 271(a) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

142. There is an actual case or controversy such that the Court may entertain Plaintiff's request for declaratory relief consistent with Article III of the United States Constitution, and that actual case or controversy requires a declaration of rights by this Court.

143. Hongene presently infringes the '707 patent and further engages in conduct or has taken concrete steps intending to engage in activities that would infringe the '707 patent through promotion, offers for sale, sales, manufacture and importation of Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8.

144. Upon information and belief, including Hongene's use of the Hongene Sales System, Hongene has and will continue with respect to Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 to market, advertise, make offers for sale and sales, manufacture and import into the United States Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 in violation of ChemGenes' patent rights.

145. Hongene's sales and the Hongene Sales System create an actual, immediate, and

real controversy under the Declaratory Judgment Act that Hongene will through the making, offering for sale, selling, importing, marketing and advertising Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 directly infringe valid and enforceable claims of the '707 patent before its expiration in violation of 35 U.S.C. § 271(a), as alleged above and incorporated by reference herein.

146. Hongene's manufacture, use, sale, offer for sale, and importation of the Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 directly and/or indirectly infringes one or more claims of the '707 patent literally and/or under the doctrine of equivalents, as alleged above and incorporated by reference herein. Furthermore, Hongene's infringement is and has been willful, as alleged above and incorporated by reference herein. Hongene's infringement has caused significant damages to Plaintiff.

147. Upon information and belief, Hongene is currently manufacturing and/or has the full and current ability to use sophisticated factories in Shanghai, China to immediately manufacture Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8, and the full and current ability to immediately ship and import Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 into the United States, and/or imminently will manufacture and supply Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 to the United States. Hongene is marketing Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8, intends to market Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 and will market Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8, within this District and elsewhere in the United States.

148. Upon information and belief, Hongene and/or a third party acting in concert with Hongene are importing and/or imminently will import Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 in the United States.

149. Upon information and belief, Hongene has engaged in and will continue to engage in substantial activities in preparation to market Hongene Products C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8 in the United States.

150. A judicial declaration of infringement is necessary and appropriate to resolve this controversy.

151. Plaintiff will be substantially and irreparably harmed if Hongene is not enjoined from infringing the '707 patent for any and all products.

152. Plaintiff has no adequate remedy at law.

153. This case is exceptional, and Plaintiff is entitled to an award of attorneys' fees under 35 U.S.C. § 285.

COUNT 8: DECLARATORY JUDGMENT OF INFRINGEMENT OF THE '569

PATENT

(Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16)

154. ChemGenes hereby incorporates by reference its allegations contained before and after this paragraph of the Complaint as though fully set forth herein.

155. This declaratory judgment claim arises under the United States Patent Laws, 35 U.S.C. §§ 100 et seq., including 35 U.S.C. § 271(a) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

156. There is an actual case or controversy such that the Court may entertain Plaintiff's request for declaratory relief consistent with Article III of the United States Constitution, and that actual case or controversy requires a declaration of rights by this Court.

157. Hongene presently infringes the '569 patent and further engages in conduct or has taken concrete steps intending to engage in activities that would infringe the '569 patent

through promotion, offers for sale, sales, manufacture and importation of Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16.

158. Upon information and belief, including Hongene's use of the Hongene Sales System, Hongene has and will continue with respect to Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 to market, advertise, make offers for sale and sales, manufacture and import into the United States Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 in violation of ChemGenes' patent rights.

159. Hongene's sales and the Hongene Sales System create an actual, immediate, and real controversy under the Declaratory Judgment Act that Hongene will through the making, offering for sale, selling, importing, marketing and advertising Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 directly infringe valid and enforceable claims of the '569 patent before its expiration in violation of 35 U.S.C. § 271(a), as alleged above and incorporated by reference herein.

160. Hongene's manufacture, use, sale, offer for sale, and importation of Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 directly and/or indirectly infringes one or more claims of the '569 patent literally and/or under the doctrine of equivalents, as alleged above and incorporated by reference herein. Furthermore, Hongene's infringement is and has been willful, as alleged above and incorporated by reference herein. Hongene's infringement has caused significant damages to Plaintiff.

161. Upon information and belief, Hongene is currently manufacturing and/or has the full and current ability to use sophisticated factories in Shanghai, China to immediately manufacture Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16, and has the full and current ability to immediately ship and import Hongene Products

C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 into the United States, and/or imminently will manufacture and supply Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 to the United States. Hongene is marketing Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16, intends to market Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 and will market Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16, within this District and elsewhere in the United States.

162. Upon information and belief, Hongene and/or a third party acting in concert with Hongene are importing and/or imminently will import Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 into the United States.

163. Upon information and belief, Hongene has engaged in and will continue to engage in substantial activities in preparation to market Hongene Products C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16 in the United States.

164. A judicial declaration of infringement is necessary and appropriate to resolve this controversy.

165. Plaintiff will be substantially and irreparably harmed if Hongene is not enjoined from infringing the '569 patent for any and all products.

166. Plaintiff has no adequate remedy at law.

167. This case is exceptional, and Plaintiff is entitled to an award of attorneys' fees under 35 U.S.C. § 285.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests entry of judgment in their favor and against Defendant as follows:

A. That the Court enter judgment that the '707 patent, '885 patent and '569 patent are enforceable and infringed by Hongene, literally and/or under the doctrine of equivalents, and that Hongene's infringement is and has been willful as to any or all of Hongene Products A-1, B-1, B-2, B-3, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16.

B. That the Court enter judgment that Hongene has engaged in induced infringement of one or more claims of the '707 patent, '885 patent and '569 patent as to any or all of Hongene Products A-1, B-1, B-2, B-3, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16.

C. That the Court enter judgment that Hongene has engaged in contributory infringement of one or more claims of the '707 patent, '885 patent and '569 patent as to any or all of Hongene Products A-1, B-1, B-2, B-3, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16.

D. That the Court declare that Hongene's manufacture, use, sale, offer to sell, and/or importation of any or all of Hongene Products A-1, B-1, B-2, B-3, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16, and any other product or service that infringes the '707 patent, '885 patent or '569 patent, does or will constitute direct infringement of the '707 patent, '885 patent and '569 patent.

E. That the Court declare that Hongene's manufacture, use, sale, offer to sell, and/or importation of any or all of Hongene Products A-1, B-1, B-2, B-3, C-1, C-2, C-3, C-4,

C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16, and any other product or service that infringes the '707 patent, '885 patent or '569 patent, does or will constitute indirect infringement of the '707 patent, '885 patent and '569 patent.

F. That the Court enter a judgment and order against Hongene and award to Plaintiff all damages adequate to compensate Plaintiff for Hongene's direct or indirect infringement of the '707 patent, '885 patent and '569 patent, together with interests, costs and disbursements, and treble damages pursuant to 35 U.S.C. § 284.

G. That the Court enter a judgment and order requiring Hongene to provide accountings as to any or all of Hongene Products A-1, B-1, B-2, B-3, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16, and any other product or service that infringes the '707 patent, '885 patent or '569 patent, and to pay additional and/or supplemental damages to Plaintiff, including without limitation: (i) with respect to any sales or revenues not presented at trial, (ii) post-judgment reasonable royalty damages, (iii) prejudgment interest, and (iv) post-judgment interest.

H. That the Court enter a permanent injunction to prevent Hongene and its subsidiaries, parents, divisions, directors, officers, agents, servants, employees and all other persons in active concert or privity or in participation with them, from making, using, selling, offering for sale, importing or distributing, or inducing others to make, use, sell, offer for sale, import or distribute, as to any or all of Hongene Products A-1, B-1, B-2, B-3, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15 and C-16, and any other product or service that infringes the '707 patent, '885 patent or '569 patent.

I. That the Court enter a judgment that this case is exceptional, and to award Plaintiff all of its costs, expenses, and reasonable attorneys' fees under 35 U.S.C. § 285 and all other

applicable statutes and rules in common law that would be appropriate; and

J. That Plaintiff be awarded such other and further relief as this Court may deem just and proper under the circumstances.

Date: February 18, 2022

Respectfully submitted,

HAMILTON, BROOK, SMITH &
REYNOLDS, P.C.

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