

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

INNOGENETICS N.V.,
a Belgian corporation,

Plaintiff,

v.

ABBOTT LABORATORIES, an
Illinois corporation,

Defendant.

ORDER

05-C-0575-C

On July 17, 2006, I denied defendant Abbott Laboratories' motion for summary judgment on its counterclaim that plaintiff Innogenetics N.V. engaged in inequitable conduct during the prosecution of plaintiff's patent No. 5,846,704. I granted plaintiff's cross-motion for summary judgment on the claim and on its motion to recover the costs and attorney fees it incurred in defending against the counterclaim of inequitable conduct. I ordered plaintiff to submit an itemized statement of the fees and costs it incurred. Presently before the court are plaintiff's itemized statement and defendant's objection thereto. Plaintiff requests reimbursement from defendant in the amounts of \$291,643.00 for

attorney fees and \$9,613.06 in expenses. Plaintiff's request for attorney fees breaks down as follows:

Timekeeper	Hours	Rate	Value
John S. Skilton	168.8	\$600	\$101,280
Colin G. Sandercock	131.55	\$600	\$78,930
Shannon M. Bloodworth	43.9	\$450	\$19,755
Gabrielle E. Bina	62.4	\$350	\$21,840
Melody K. Glazer	213.2	\$240	\$51,168
Lissa R. Koop	73.4	\$200	\$14,680
Ellen R. Feingold	39.9	\$100	\$3,990
			TOTAL: \$291,643

I have reviewed plaintiff's statements and defendant's objections and determined that plaintiff is entitled to a reimbursement of attorney fees in the amount of \$165,609 and a reimbursement of expenses in the amount of \$1,795, totaling \$167,404.

Defendant styled its objections under multiple headings, but its dissatisfaction with plaintiff's itemized statements is essentially twofold. First, defendant argues, *dk. # 219*, at 6, that plaintiff failed in many instances to provide sufficient detail regarding the work that was done. As defendant correctly points out, much of the work described in plaintiff's statements (for example: responding to discovery requests, preparing the European lawyers for depositions, preparing a privilege log) was done to defend against all of the

counterclaims, not only against the charge of inequitable conduct. The party requesting fees must submit billing statements that are sufficiently detailed so that opposing counsel and the court can determine the reasonableness of the requested fee. Stickle v. Heublein, Inc., 590 F. Supp. 630, 632-33 (W.D. Wis. 1984). Plaintiff has apparently attempted to bypass the requirement that its statement be *detailed* (clearly showing a connection between the work done and the inequitable conduct charge) by submitting the affidavit of lead counsel John S. Skilton, in which he states, dkt. #153 at 3-4, “[i]n my opinion the time spent and charged for (as itemized in Exhibit A) was reasonably spent on the tasks described and was necessarily spent in order to make a full defense to Abbott’s charges of inequitable conduct.” Such a declaration from an attorney is *not* an acceptable substitute for an itemized statement that describes the work completed with particularity.

For those time entries in plaintiff’s statement linking the work performed explicitly to the inequitable conduct defense, I will grant plaintiff’s request for fees in its entirety. However, for the dozens of entries where no reference to “inequitable conduct” is made, I will reduce plaintiff’s request by one-third. I believe this is a compromise that is fair to both sides. To deny plaintiff’s request altogether would be unduly harsh, but to grant it in its entirety, in reliance solely on Skilton’s declaration, would not be fair to defendant.

A few entries in plaintiff’s statement list more than one task without apportioning the amount of time spent on each task. In some instances, some of those tasks are fully

reimbursable (because they are clearly linked to the inequitable conduct charge) and others are not. In those cases, I divided the total amount of time listed by the number of tasks and further reduced part of the time (attributable to the tasks not described in detail) by one-third. I reproduce plaintiff's itemized statement later in this opinion and for each entry I indicate how many hours I approved for reimbursement. Although I do not reproduce plaintiff's request for reimbursement of expenses (in the amount of \$9,613.06), I applied the same methodology: I reduced each allowable request by one-third.

Defendant's second argument (its only other argument that merits separate discussion; all of its other concerns were addressed in the discussion above) concerns work performed by plaintiff regarding Charles A. Muserlian. Defendant notified plaintiff for the first time on January 4, 2006, that it intended to depose Muserlian. Defendant is correct that plaintiff is not entitled to reimbursement for fees and expenses associated with plaintiff's work with Muserlian prior to January 4, 2006 (it appears that plaintiff was working with Muserlian prior to January 4 in connection with another lawsuit not involving defendant). Accordingly, I have disregarded all requests for fees and expenses dated prior to January 4 that included work pertaining to Muserlian. Certain attorney fee entries prior to January 4 listed multiple tasks, some involving Muserlian and some not. Because plaintiff did not apportion the hours worked by task, I disregarded those entries in their entirety. See, e.g., "A party seeking attorneys' fees must present a request from which the correct

amount may be computed with reasonable dispatch.” In re Central Ice Cream Company, 836 F.2d 1068, 1074 (7th Cir. 1987).

Moreover, besides denying plaintiff’s request for expenses incurred with connection to Muserlian prior to January 4 (travel expenses to New York in December 2005), I reduced all other expenses pertaining to Muserlian (such as deposition transcripts and tapes) by half (before I further reduced them by one-third, for the reason explained above). I did this because, as defendant points out, dkt. #219 at 3, plaintiff provided no evidence that *all* of the expenses claimed were incurred in connection with the present case and not in connection with the other case plaintiff was litigating that also involved Muserlian (a single deposition took place, in which lawyers from both cases deposed Muserlian).

Likewise, I have reduced the number of hours during Muserlian’s deposition for which plaintiff may be reimbursed. On the day of the deposition (January 11, 2006), Skilton billed 6 hours and Sandercock billed 4 hours (out of a seven hour deposition day). Defendant argues, persuasively, that these attorneys are not entitled to reimbursement for so many hours, when in fact defendant only asked thirteen questions of Muserlian all day long (the rest of day was taken up by attorneys representing parties in unrelated litigation). I will reduce each attorney’s time entry for January 11 by one third. The pages that follow reflect each of the deductions in attorney fees that I have discussed.

<u>Date</u>	<u>Professional Services</u>	<u>Timekeeper</u>	<u>Hours Claimed by Plaintiff</u>	<u>Hours Approved by Court</u>
11/17/05	Work with Dr. Chowdhury re inequitable conduct allegations by Abbott and facts dealing with Cha's PCT application at issue; legal research re inequitable conduct.	Melody K. Glazer	5.5	5.5
11/18/05	Review prosecution file history of '704 patent; draft memorandum re important facts and dates to challenge inequitable conduct allegations; legal research re inequitable conduct.	Melody K. Glazer	5	5
11/21/05	Legal research re inequitable conduct issues.	Melody K. Glazer	1.5	1.5
11/22/05	Review prosecution history for prior art disclosures.	Melody K. Glazer	0.5	0.16 (= 1/3)
11/23/05	Review requirements for information disclosure statement and international search report disclosure; draft fact sheet containing important dates and events during prosecution of '704 patent regarding Cha references.	Melody K. Glazer	5.9	1.96 (= 1/3)
11/28/05	Legal research re	Melody K. Glazer	7.5	7.5

	inequitable conduct and patent office procedures on information disclosure statements; draft legal memo re same.			
11/29/05	Work with Ms. Glazer re inequitable conduct allegations.	John S. Skilton	1	1
11/29/05	Review file history and compile important facts and dates re Cha inequitable conduct allegations.	Melody K. Glazer	3.5	3.5
11/30/05	Review file history and draft table of facts re Cha references.	Melody K. Glazer	2.5	0.83 (= 1/3)
12/01/06	Legal research re inequitable conduct allegations; draft memo re same.	Melody K. Glazer	6.8	6.8
12/02/05	Legal research re inequitable conduct, patent procedures and requirements for information disclosure; draft legal memo re same.	Melody K. Glazer	9.2	9.2
12/03/05	Legal research re inequitable conduct, patent procedures and requirements for information disclosure; draft legal memo re same.	Melody K. Glazer	7	7
12/04/05	Draft legal memo re inequitable conduct, patent procedures and requirements for information disclosure;	Melody K. Glazer	5	5

	circulate same to litigation team; prepare materials for discussion re inequitable conduct issues; review case law cited in memo re inequitable conduct allegation.			
12/05/05	Prepare talking points and review prosecution history details with Mr. Chowdhury in advance of strategy meeting re inequitable conduct allegation; attend strategy meeting.	Melody K. Glazer	3	3
12/09/05	Work with Ms. Van den broecke to draft discovery responses for requests for admission; review Judge Crabb inequitable conduct decisions; contact PTO expert regarding possible retention for prosecution history review.	Colin G. Sandercock	6.8	3.77 (= 100% of 1 task listed + $\frac{1}{3}$ of 2 tasks listed)
12/09/05	Review inequitable conduct memorandum; work on responses to demands to admit.	John S. Skilton	1	0.66 (= 100% of 1 task listed + $\frac{1}{3}$ of 1 task listed)
12/13/05	Continued work on discovery responses and requests for admission; weekly conference with client; confer with Mr.	Colin G. Sandercock	3.5	1.16 (= $\frac{1}{3}$)

	Sofocleous regarding reviewing the '704 file; continue to review the '704 file history.			
12/13/05	Telephone with Mr. Sandercock and Mr. Sofocleous re review of certified prosecution history; work with Ms. Michalski to annotate working copies of certified prosecution history.	Melody K. Glazer	1	0.33 (= 1/3)
12/22/05	Consider additional Abbott discovery relating to inequitable conduct.	Colin G. Sandercock	1	1
12/28/05	Meet with Mr. Muserlian; begin review of his file; work on protective order issues; continue work on Abbott discovery responses.	Colin G. Sandercock	4	0
12/30/05	Work on discovery responses; further detailed review of the '704 file history, and Muserlian '704 patent file.	Colin G. Sandercock	6	0
1/01/06	Further work on discovery responses; continue to review certified file history and Muserlian documents and draft answers relating to citations of Cha in the '704 application; review archive MPEP copies on USPTO website.	Colin G. Sandercock	3	0
1/03/06	Work on discovery	Colin G.	5	0

	responses; work with paralegal to research archive MPEP editions to determine whether 1995 ISR references need to be cited on a 1449 and whether examiner needed to cite references on a PTO-892; revise discovery responses and forward revised draft to Ms. Van den broecke and team; work on reviewing Muserlian file.	Sandercock		
1/04/06	Review Abbott subpoena of Mr. Muserlian; confer with Mr. Anstaett re same.	John S. Skilton	1	0.33 (= 1/3)
1/04/06	Continue to review archived MPEPs regarding the examiner's obligations to review the Cha application and whether he was required to cite Cha on a PTO-892.	Colin G. Sandercock	2	2
1/06/06	Meet with Mr. Skilton and Ms. Bloodworth to review Mr. Muserlian's prosecution file for privileged documents; prepare Muserlian file for production.	Melody K. Glazer	5	1.66 (= 1/3)
1/09/06	Prepare for Mr. Muserlian's deposition in New York.	John S. Skilton	2	0.66 (= 1/3)
1/10/06	Review file prosecution history; prepare for Mr.	John S. Skilton	4	1.33 (= 1/3)

1/10/06	Muserlian's deposition. Prepare outline of issues for Muserlian deposition; work with Mr. Muserlian to prepare for deposition.	Colin G. Sandercock	5	1.66 (= 1/3)
1/11/06	Prepare for and defend deposition of Mr. Muserlian in New York.	John S. Skilton	6	2 (= 1/3)
1/11/06	Prepare for and attend Muserlian deposition.	Colin G. Sandercock	4	1.33 (= 1/3)
1/14/06	Review Ms. Grosset- Fournier's files for privileged documents and in preparation for meeting with her on Wednesday Jan. 18, 2006.	Melody K. Glazer	2	0.66 (= 1/3)
1/15/06	Review Ms. Grosset- Fournier's files for privileged documents and in preparation for meeting with her on Wednesday Jan. 18, 2006.	Melody K. Glazer	1.5	0.5 (= 1/3)
1/16/06	Review Ms. Grosset- Fournier's file in preparation for a meeting with her on Wednesday, January 18, Gent; draft memo re same.	Melody K. Glazer	4	1.33 (= 1/3)
1/17/06	Draft memo re contents of Ms. Grosset-Fournier's prosecution file for the '704 patent.	Melody K. Glazer	1	0.33 (= 1/3)
2/10/06	Review European prosecution history of '704 patent.	Melody K. Glazer	3	1 (= 1/3)
2/13/06	Review European prosecution history of EP	Melody K. Glazer	5	1.66 (= 1/3)

	0637342; meet with Dr. Chowdhury re same; draft summary of key points and dates of same.			
2/14/06	Draft document log for hot documents produced from electronic folder to be used in preparing witnesses for deposition; Review European prosecution history of EP 0637342; draft summary of key points and dates re same.	Melody K. Glazer	2.5	0.83 (= 1/3)
2/15/06	Review European prosecution history of EP 0637342; draft summary of key points and dates of same.	Melody K. Glazer	2.5	0.83 (= 1/3)
2/16/06	Meet with Dr. Chowdhury re European prosecution history of EP 0637342.	Melody K. Glazer	1	0.33 (= 1/3)
3/14/06	Review prior depositions and prepare outline of issues for upcoming lawyer depositions.	Colin G. Sandercock	2	0.66 (= 1/3)
3/15/06	Review transcript of Mr. Muserlian's deposition in preparation for Belgium depositions of Mses. Grosset-Fournier and De Clercq.	John S. Skilton	3	1 (= 1/3)
3/16/06	Prepare for Belgium depositions; conference with Ms. Glazer and Mr. Anstaett re same; review	John S. Skilton	3	1 (= 1/3)

3/17/06	prosecution histories. Prepare Ms. Grosset-Fournier and Ms. De Clercq for depositions.	Colin G. Sandercock	8	2.66 (= 1/3)
3/17/06	Review documents in preparation for deposition of Ms. Grosset-Fournier.	John S. Skilton	1	0.33 (= 1/3)
3/18/06	Prepare for witness preparation; review file prosecution histories and Muserlian transcript.	John S. Skilton	4	1.33 (= 1/3)
3/19/06	Draft questions for direct examination of Ms. Grosset-Fournier.	Melody K. Glazer	0.5	0.16 (= 1/3)
3/20/06	Prepare Ms. Grosset-Fournier and Ms. De Clercq for depositions.	Colin G. Sandercock	8	2.66 (= 1/3)
3/20/06	Prepare Mses. Grosset-Fournier and De Clercq for deposition; prepare Dr. Jacobs for deposition; review files in preparation for deposition.	John S. Skilton	8	2.66 (= 1/3)
3/21/06	Prepare for and attend deposition of Ms. Grosset-Fournier.	Colin G. Sandercock	8	2.66 (= 1/3)
3/21/06	Prepare for and defend deposition of Ms. Grosset-Fournier.	John S. Skilton	8	2.66 (= 1/3)
3/22/06	Prepare for and attend deposition of Ms. De Clercq.	Colin G. Sandercock	8	2.66 (= 1/3)
3/22/06	Defend deposition of Ms. De Clercq; take affirmative testimony of Ms. De Clercq; defend deposition of Dr. Jacobs.	John S. Skilton	8	2.66 (= 1/3)

3/24/06	Draft outline of summary judgment brief on inequitable conduct.	John S. Skilton	4	4
4/13/06	Work on depositions of Dr. Patterson and Attorney Crease.	John S. Skilton	2	0.66 (= 1/3)
4/14/06	Work on responsive expert reports; work on depositions of Mr. Crease and Dr. Patterson.	John S. Skilton	1	0.33 (= 1/3)
4/19/06	Meet with expert Sofocleous to discuss inequitable conduct issues; analyze Molins Federal Circuit decision relating to foreign prosecution and circulate analysis to team.	Colin G. Sandercock	1.75	1.75
4/19/06	Research Federal Circuit case law re inequitable conduct; research law re effect of European Patent Office proceedings in U.S. litigation.	Gabrielle E. Bina	1.9	1.9
4/19/06	Confer with Mr. Sofocleous concerning expert report; prepare for deposition of Mr. Crease; review European patent prosecution history and opposition proceedings.	John S. Skilton	6	2 (= 1/3)
4/20/06	Prepare for deposition of Mr. Crease.	John S. Skilton	1	0.33 (= 1/3)
4/21/06	Prepare for deposition of Mr. Crease.	John S. Skilton	1	0.33 (= 1/3)
4/22/06	Review European prosecution file in	John S. Skilton	4	1.33 (= 1/3)

	preparation for deposition of Mr. Crease.			
4/23/06	Confer with Mr. Sofocleous regarding report drafting issues; prepare for Crease deposition.	Colin G. Sandercock	3	1 (= 1/3)
4/24/06	Prepare for and take deposition of Mr. Crease.	John S. Skilton	8	2.66 (= 1/3)
4/24/06	Prepare for and attend deposition of Abbott's expert witness, Crease.	Colin G. Sandercock	7	2.33 (= 1/3)
4/26/06	Outline inequitable conduct summary judgment motion.	John S. Skilton	1	1
4/27/06	Work with Mr. Sofocleous and Dr. Chowdhury on inequitable conduct expert report.	John S. Skilton	2	2
4/27/06	Work on Sofocleous expert report.	Colin G. Sandercock	1	0.33 (= 1/3)
4/27/06	Review drafting of rebuttal expert report on inequitable conduct.	Melody K. Glazer	1	1
4/28/06	Work with Mr. Sofocleous on expert report.	Colin G. Sandercock	1	0.33 (= 1/3)
4/29/06	Meet with Mr. Sofocleous re rebuttal report on inequitable conduct; review Crease, De Clercq and Maertens depositions re citation material for inequitable conduct expert report.	Melody K. Glazer	2.5	2.5
4/29/06	Work with Mr.	Colin G.	3.5	1.16 (= 1/3)

	Sofocleous on expert report.	Sandercock		
5/01/06	Begin drafting motion for summary judgment of no inequitable conduct and brief in support of same.	Gabrielle E. Bina	1	1
5/01/06	Review Sofocleous draft report.	John S. Skilton	4	1.33 (= 1/3)
5/01/06	Work on Sofocleous expert report.	Colin G. Sandercock	5.5	1.83 (= 1/3)
5/02/06	Continue drafting brief in support of motion for summary judgment of no inequitable conduct; research Federal Circuit law for same.	Gabrielle E. Bina	6.1	6.1
5/02/06	Work on Sofocleous expert report; finalize same.	Colin G. Sandercock	4	1.33 (= 1/3)
5/03/06	Work on inequitable conduct brief; review Sofocleous report concerning inequitable conduct issues.	John S. Skilton	2	2
5/03/06	Confer re status of litigation, summary judgment motion on inequitable conduct; draft plaintiff's proposed findings of fact in support of summary judgment motion on inequitable conduct.	Melody K. Glazer	4.5	4.5
5/03/06	Continue drafting brief in support of motion for summary judgment of no inequitable conduct;	Gabrielle E. Bina	5.4	5.4

	research Federal Circuit law for same.			
5/04/06	Draft plaintiff's proposed findings of fact in support of summary judgment on inequitable conduct.	Melody K. Glazer	2	2
5/04/06	Work on summary judgment briefing relating to inequitable conduct; review Crease deposition transcript and work on sections relating to the US prosecution of Cha.	Colin G. Sandercock	3.5	2.33 (= 100% of 1 task + 1/3 of 1 task)
5/04/06	Research and review case law re inequitable conduct for brief in support of motion for summary judgment of no inequitable conduct.	Gabrielle E. Bina	3.5	3.5
5/05/06	Continue work on summary judgment briefing for inequitable conduct.	Colin G. Sandercock	1	1
5/07/06	Draft proposed findings of fact in support of summary judgment on inequitable conduct.	Melody K. Glazer	1	1
5/08/06	Revise brief in support of motion for summary judgment of no inequitable conduct and review case law re same.	Gabrielle E. Bina	2	2
5/08/06	Revise brief in support of motion for summary judgment of no inequitable conduct; conduct and review case	Melody K. Glazer	2	2

	law for same.			
5/09/06	Draft plaintiff's proposed findings of fact in support of summary judgment of no inequitable conduct.	Melody K. Glazer	6.8	6.8
5/09/06	Work on summary judgment brief; review and circulate new CAFC case on inequitable conduct.	Colin G. Sandercock	3	3
5/09/06	Work with Mr. Skilton and Ms. Bloodworth regarding creation of privilege log.	Ellen R. Feingold	1.1	0.36 (= 1/3)
5/10/06	Draft plaintiff's proposed findings of fact in support of summary judgment of no inequitable conduct.	Melody K. Glazer	8	8
5/11/06	Confer re motion for summary judgment of no inequitable conduct; review deposition transcripts and deposition exhibits re motion for summary judgment; draft proposed findings of fact in support of motion for summary judgment of no inequitable conduct.	Melody K. Glazer	6	6
5/11/06	Conference with Ms. Bloodworth and Ms. Michalski regarding Innogenetics privilege log; review binders with privileged documents in preparation of compiling privilege log; review and analyze privileged	Ellen R. Feingold	3.6	1.2 (= 1/3)

5/12/06	documents in preparation of compiling privilege log. Work on brief re summary judgment of no inequitable conduct.	John S. Skilton	3	3
5/12/06	Analyze privileged documents to compile privilege log.	Ellen R. Feingold	2.7	0.9 (= 1/3)
5/13/06	Revise draft brief in support of motion for summary judgment of no inequitable conduct.	John S. Skilton	5	5
5/13/06	Revise brief in support of summary judgment; research case law re inequitable conduct for same.	Gabrielle E. Bina	5	5
5/13/06	Revise proposed findings of fact in support of motion for summary judgment of no inequitable conduct.	Melody K. Glazer	7	7
5/14/06	Review and revise inequitable conduct brief; review prior art and record in case; review expert reports.	Colin G. Sandercock	8	4.44 (= 100% of 1 task + 1/3 of 2 tasks)
5/14/06	Revise second draft of brief in support of motion for summary judgment of no inequitable conduct.	John S. Skilton	3	3
5/14/06	Revise proposed findings of fact in support of motion for summary judgment of no inequitable conduct.	Melody K. Glazer	9	9
5/15/06	Work with team on revising brief; review case record and work on proposed	Colin G. Sandercock	6.5	6.5

	findings of fact; legal research regarding inequitable conduct issues and patent Office issues for brief; review case law; review motion for summary judgment received from Abbott.			
5/15/06	Revise brief in support of motion for summary judgment and review case law for same; finalize summary judgment brief and supporting documents for filing.	Gabrielle E. Bina	8	2.66 (= 1/3)
5/15/06	Revise proposed findings of fact in support of motion for summary judgment of no inequitable conduct; draft declaration in support of motion for summary judgment of no inequitable conduct; prepare documents for filing summary judgment of no inequitable conduct.	Melody K. Glazer	13	13
5/15/06	Verify citations and format in Innogenetics' brief for summary judgment of no inequitable conduct.	Lissa R. Koop	3.2	3.2
5/15/06	Work on final draft of summary judgment brief on inequitable conduct.	John S. Skilton	7	7
5/16/06	Review brief filed by Abbott in support of motion for summary judgment of inequitable conduct.	John S. Skilton	1.5	1.5

5/17/06	Review and analyze privileged documents in preparation of compiling privilege log; confer with Ms. Glazer regarding organization of privileged documents in privilege log.	Ellen R. Feingold	4.9	1.63 (= 1/3)
5/17/06	Continue review of Abbott's motion for summary judgment.	John S. Skilton	1.5	0.5 (= 1/3)
5/18/06	Review Abbott's brief in support of its motions for summary judgment; meet re Innogenetics' response to Abbott's motions for summary judgment.	Melody K. Glazer	1	0.33 (= 1/3)
5/18/06	Attend telephone conference re strategy for summary judgment opposition briefing; draft summary re same. Compile privilege log; review and analyze privileged documents in preparation to compile privilege log; confer with Ms. Glazer regarding organization of privilege log.	Gabrielle E. Bina	0.5	0.16 (= 1/3)
5/18/06	Review and analyze privileged documents in preparation of compiling privilege log; compile privilege log.	Ellen R. Feingold	5.5	1.83 (= 1/3)
5/19/06	Review and classify documents for privilege log.	Ellen Feingold	5.3	1.76 (= 1/3)
5/19/06		Melody K. Glazer	5	1.66 (= 1/3)

5/21/06	Complete Innogenetics' privilege log of patent documents for years 1987-1991	Lissa R. Koop	0.8	0.26 (= 1/3)
5/22/06	Review and analyze privileged documents in preparation of compiling privilege log; compile privilege log.	Ellen Feingold	3.9	1.3 (= 1/3)
5/22/06	Review and edit draft privilege log containing documents from Attorneys Grosset-Fournier and De Clercq, and the patent department.	Melody K. Glazer	1	0.33 (= 1/3)
/22/06	Review and revise Innogenetics' privilege log of patent documents for years 1987-1991	Lissa R. Koop	1.5	0.5 (= 1/3)
5/23/06	Review and analyze privileged documents in preparation of compiling privilege log; compile privilege log.	Ellen Feingold	4.6	1.53 (= 1/3)
5/23/06	Analyze and compile log of Innogenetics' privileged documents.	Lissa R. Koop	1.6	0.53 (= 1/3)
5/24/06	Review and analyze documents in preparation of privilege log; review and edit privilege log.	Shannon M. Bloodworth	4.4	1.46 (= 1/3)
5/24/06	Review and analyze privileged documents in preparation of compiling privilege log; compile privilege log.	Ellen Feingold	4.2	1.4 (= 1/3)

5/24/06	Work on inequitable conduct response.	John S. Skilton	1.3	1.3
5/25/06	Begin drafting reply brief re inequitable conduct; confer with Ms. Glazer re same and re chart concerning parallel prosecutions.	John S. Skilton	3	3
5/25/06	Review documents for patent prosecution privilege log.	Melody K. Glazer	2	0.66 (= 1/3)
5/25/06	Review and analyze privileged documents in preparation of compiling privilege log; compile privilege log.	Ellen Feingold	3.2	1.06 (= 1/3)
5/26/06	Work on response to Abbott's inequitable conduct motion.	John S. Skilton	2.5	2.5
5/26/06	Organize privileged documents per Ms. Glazer's instructions.	Ellen Feingold	0.9	0.3 (= 1/3)
5/26/06	Review documents for patent prosecution privilege log; compile privilege log.	Melody K. Glazer	6	2 (= 1/3)
5/26/06	Review and analyze privileged documents; analyze and revise privilege log of same.	Shannon M. Bloodworth	5	1.66 (= 1/3)
5/27/06	Review and enter documents on prosecution privilege log.	Melody K. Glazer	5	1.66 (= 1/3)
5/28/06	Review US and European prosecution histories; draft chart comparing arguments presented in same.	Melody K. Glazer	4	1.33 (= 1/3)

5/29/06	Review US and European prosecution histories; draft chart comparing arguments presented in same.	Melody K. Glazer	2	0.66 (= 1/3)
5/29/06	Review and analyze privileged documents; review, analyze and edit privilege log.	Shannon M. Bloodworth	4	1.33 (= 1/3)
5/30/06	Work on reply to Abbott's inequitable conduct motion; legal research concerning same; work on draft.	John S. Skilton	5	5
5/30/06	Review and analyze privileged documents; analyze and edit privilege log.	Shannon M. Bloodworth	5	1.66 (= 1/3)
5/31/06	Work on response to Abbott's motion for summary judgment of inequitable conduct; conduct legal research in preparation of same.	John S. Skilton	3	3
5/31/06	Review, analyze and edit privilege log; review and analyze documents in preparation of same.	Shannon M. Bloodworth	5	1.66 (= 1/3)
6/01/06	Review and revise draft of arguments for brief in opposition to Abbott's motion for summary judgment.	Gabrielle E. Bina	3	1 (= 1/3)
6/01/06	Work on response to Abbott's motion for summary judgment of inequitable conduct; legal research; work on	John S. Skilton	8	8

	responses to Abbott's findings of fact.				
6/02/06	Review and revise draft of arguments for brief in opposition to Abbott's motion for summary judgment; draft and revise responses to Abbott's proposed findings of fact and additional affirmative findings.	Gabrielle E. Bina	7	2.33 (= 1/3)	
6/02/06	Prepare and revise responsive documents to Abbott's motion for summary judgment.	John S. Skilton	8	2.66 (= 1/3)	
6/03/06	Review and revise draft of arguments for brief in opposition to Abbott's motion for summary judgment of inequitable conduct; draft and revise responses to Abbott's proposed findings of fact and additional affirmative findings; review case law and documentary evidence for same.	Gabrielle E. Bina	6	6	
6/03/06	Prepare and revise responsive documents (briefs, responsive findings, etc.) to Abbott's motion for summary judgment.	John S. Skilton	8	2.66 (= 1/3)	
6/04/06	Review and revise draft of brief in opposition to Abbott's motion for summary judgment; draft and revise responses to	Gabrielle E. Bina	8	2.66 (= 1/3)	

	Abbott's proposed findings of fact and additional affirmative findings; review case law and documentary evidence for same.			
6/04/06	Prepare and revise responsive documents to Abbott's motion for summary judgment.	John S. Skilton	8	2.66 (= 1/3)
6/04/06	Revise, edit and cite-check Innogenetics' brief in opposition to motion for summary judgment of inequitable conduct.	Lissa R. Koop	6	6
6/04/06	Draft responsive Glazer declaration in opposition to Abbott's brief in support of its motion for summary judgment of inequitable conduct.	Melody K. Glazer	1	1
6/05/06	Revise brief in opposition to Abbott's motion for summary judgment of inequitable conduct; revise responses to Abbott's proposed findings of fact and additional findings of fact; revise declarations in support of briefs and review supporting documents for same.	Gabrielle E. Bina	3	3
6/05/06	Revise, edit and cite-check Innogenetics' brief in opposition to motion for summary judgment of inequitable conduct.	Lissa R. Koop	5	5
6/05/06	Continue work with team	Colin G.	3.5	3.5

	on drafting opposition to inequitable conduct.	Sandercock		
6/06/06	Revise brief in opposition to Abbott's motion for summary judgment of inequitable conduct and finalize same for filing; revise responses to Abbott's proposed findings of fact and additional findings of fact and finalize same for filing; revise declarations in support of briefs and finalize same for filing; review supporting documents for same.	Gabrielle E. Bina	2	2
6/06/06	Finalize Innogenetics' brief in opposition to motion for summary judgment of inequitable conduct for filing.	Lissa R. Koop	2	2
6/06/06	Finalize work on summary judgment opposition for inequitable conduct.	Colin G. Sandercock	1.5	1.5
6/09/06	Work on reply to Abbott's response to Innogenetics' motion for summary judgment of no inequitable conduct.	John S. Skilton	3	3
6/12/06	Review Abbott's response to Innogenetics' motion for summary judgment of no inequitable conduct; research and draft reply to same.	Lissa R. Koop	9.1	9.1
6/13/06	Research and draft Innogenetics' reply brief re	Lissa R. Koop	8	8

	Innogenetics' motion for summary judgment of no inequitable conduct.			
6/14/06	Draft reply brief in support of Innogenetics' motion for summary judgment of no inequitable conduct.	Melody K. Glazer	7	7
6/14/06	Research and draft Innogenetics' reply brief re Innogenetics' motion for summary judgment of no inequitable conduct.	Lissa R. Koop	7.2	7.2
6/14/06	Review first draft of brief; edit brief in reply to Abbott's opposition to motion for summary judgment of no inequitable conduct.	John S. Skilton	1	1
6/15/06	Work on reviewing and revising draft Reply for INNX motion for summary judgment.	Colin G. Sandercock	2.5	2.5
6/15/06	Work on reply in support of Innogenetics' motion of no inequitable conduct.	John S. Skilton	5	5
6/15/06	Draft replies to Abbott's responses to Innogenetics' proposed findings; revise and edit reply brief in support of Innogenetics' motion for summary judgment; coordinate filing of reply; draft supporting documents for reply brief.	Melody K. Glazer	8	2.66 (= 1/3)
6/15/06	Research, draft and edit Innogenetics' reply to Abbott's response re	Lissa R. Koop	5.6	5.6

	motion for summary judgment of no inequitable conduct.			
6/16/06	Edit reply brief in support of Innogenetics' motion for summary judgment of no inequitable conduct; prepare supporting documents for filing; coordinate filing of reply brief and supporting documents.	Melody K. Glazer	12	12
6/16/06	Attend to final draft and edits to brief in reply to opposition to motion for summary judgment.	John S. Skilton	6	2 (= 1/3)
6/16/06	Review and revise draft inequitable conduct reply.	Colin G. Sandercock	1	1
6/16/06	Finalize Innogenetics' reply brief re Abbott's response to Innogenetics' motion for summary judgment of no inequitable conduct.	Lissa R. Koop	5.6	5.6
6/19/06	Review Abbott's reply brief in support of Abbott's motion for summary judgment; draft summary of arguments of same. Review and analyze privileged documents; analyze and edit privilege log.	Melody K. Glazer	4.5	1.5 (= 1/3)
6/22/06	Edit privilege log; draft correspondence to Ms. Carter.	Shannon M. Bloodworth	4	1.33 (= 1/3)
6/23/06	Review and analyze	Shannon M. Bloodworth	1.5	0.5 (= 1/3)
6/26/06		Shannon M.	4	1.33 (= 1/3)

	privileged documents. Review and analyze	Bloodworth		
6/27/06	privileged documents; analyze and revise privilege log. Review, analyze and edit Innogenetics' supplemental privilege log; review and analyze documents in preparation of same.	Shannon M. Bloodworth	5	1.66 (= 1/3)
6/28/06		Shannon M. Bloodworth	6	2 (= 1/3)
7/25/06	Review sample fee petition; draft declarations re costs and fees for inequitable conduct case; confer with Mr. Anstaett re same; confer with Mr. Skilton re his fees.	Lissa R. Koop	2.5	2.5
7/26/06	Draft and revise fee petition re inequitable conduct; confer with Ms. Bina and Ms. Glazer re same.	Lissa R. Koop	4.1	4.1
7/27/06	Revise fee petition re inequitable conduct; confer with Mr. Anstaett and Ms. Glazer re same.	Lissa R. Koop	5	5
7/28/06	Revise and finalize fee petition for filing.	Lissa R. Koop	6.2	6.2

Each timekeeper's time will be reimbursable as follows:

Timekeeper	Hours	Rate	Value
John S. Skilton	97.37	\$600	\$58,422

Colin G. Sandercock	50.95	\$600	\$30,570
Shannon M. Bloodworth	14.59	\$450	\$6,565.5
Gabrielle E. Bina	44.71	\$350	\$15,648.5
Melody K. Glazer	162.16	\$240	\$38,918.4
Lissa R. Koop	70.79	\$200	\$14,158
Ellen R. Feingold	13.27	\$100	\$1,327
			TOTAL: \$165,609

The total amount of reimbursable expenses, calculated as explained in this opinion, is \$1,795.

ORDER

IT IS ORDERED THAT plaintiff Innogenetics N.V. is AWARDED attorney fees and costs in the amount of \$167,404.

Entered this 30th day of August, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge