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STERNE KESSLER FILES 11 IPR PETITIONS ON BEHALF OF GENEDX, INC., SUBSIDIARY OF BIOREFERENCE LABORATORIES, INC.

Petitions aim to nullify cancer gene patents owned, co-owned, or licensed by Myriad Genetics, Inc.

WASHINGTON, DC – [Sterne, Kessler, Goldstein & Fox P.L.L.C.](#), an intellectual property law firm in Washington, DC, announced today that it has filed eleven petitions for *Inter Partes Review* (IPR) with the U.S. Patent and Trademark Office (USPTO) on behalf of GeneDx, Inc., a subsidiary of BioReference Laboratories, Inc. (Nasdaq:BRLI). These IPR petitions aim to nullify eleven patents owned, co-owned, or licensed by Myriad Genetics, Inc. These patents have been asserted against GeneDx in patent infringement litigation initiated in the United States District Court for the District of Utah on October 17, 2013.

The patents at issue all deal with three genes involved in the diagnosis of cancer – two of the genes related to breast cancer (BRCA1 and BRCA2), and the third related to colon cancer (MUTYH). Myriad is presently involved in consolidated patent litigation against seven companies, including GeneDx, each of which is alleged to infringe one or more of a large portfolio of patents on these three genes.

"Myriad is attempting to prevent GeneDx and others from conducting tests involving these genes to identify the molecular basis of inherited cancer," said [Jorge A. Goldstein](#), Director at Sterne Kessler. "These IPR filings by GeneDx are the first, and so far, only use of the novel IPR procedure by any of the defendants in the Myriad litigation."

IPR is a relatively new procedure established by the America Invents Act of 2011 as a means to challenge patentability at the USPTO based on prior art grounds. The patents will continue being challenged in the Federal District Court proceeding on additional grounds. Such grounds include lack of patent eligibility for isolated DNA sequences or for diagnostic correlations consistent with two recent decisions of the U.S. Supreme Court: *Association for Molecular Pathology v Myriad Genetics* (2013) and *Mayo Clinic v Prometheus* (2012). The IPR proceedings will proceed in parallel with the litigations.

Sterne Kessler Director [Eldora L. Ellison](#) explains further, "The use of IPRs as a parallel procedure in patent litigation is a proven method to deal with highly technical issues involving prior art because the USPTO has expertise in adjudicating technical matters. IPR is an accelerated procedure typically completed within 18 months of filing; and in contrast to invalidation challenges in federal court, the burden of proof on the challenger is by a preponderance of the evidence, not by clear and convincing evidence. Finally, the patents are not presumed valid at the USPTO during an IPR as they are in federal court."

In filing these IPRs on behalf of GeneDx, Sterne Kessler joined the forces of its Trial Litigation Team with the firm's USPTO Litigation Group. The eleven patents involved are: U.S. Patent Nos. [5,654,155](#); [5,753,441](#); [6,033,857](#); [6,051,379](#); [6,083,698](#); [6,951,721](#); [7,470,510](#); [7,563,571](#); [7,622,258](#); [7,670,776](#), and [7,838,237](#).

Sterne, Kessler, Goldstein & Fox P.L.L.C. - Strategists and Advisors specializing in the protection, transfer and enforcement of Intellectual Property Rights. Founded in 1978 and based in Washington, DC, the firm has over 170 patent attorneys, agents and technical specialists representing a broad range of clients, including emerging and established companies, venture capital firms, universities and select individuals.

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