

## Biotech Co. Slams 'Rapacious Individuals' In \$28M TM Suit

By **Tiffany Hu**

Law360 (July 10, 2018, 4:09 PM EDT) -- Biotech company AntiCancer Inc. on Monday hit former contractors with a \$28.1 million trademark suit in California federal court, accusing the group of "well-financed, rapacious individuals" of stealing its valuable tumor samples and poaching its marks for cancer-treating methods.

AntiCancer accused Peter Ellman, owner of PDOX Inc., of concocting a scheme to bilk the decades-old biotech company out of millions of dollars' worth of tumor samples while he was contracted to help the struggling company create a profitable "bank" of the samples. After running off with the tumor bank, he quickly cut off all ties with the company, AntiCancer said.

Ellman had been using AntiCancer's "PDOX" mark in his company's promotional materials during their partnership and continues to do so even now, the company said. Combined with the stolen bank, Ellman has effectively "stripped AntiCancer clean," according to the complaint.

"This action seeks to put a stop to a scheme by well-financed, rapacious individuals who saw that the only thing standing between themselves and a cancer treatment goldmine was a 75-year-old award-winning scientist and his financially struggling biotech company," AntiCancer said.

PDOX, or patient-derived orthotopic xenograft, is the name for AntiCancer's method for using mice to study cancer reactions to various treatments, according to the filing.

In 2015, Ellman convinced AntiCancer CEO Robert Hoffman to partner to help the company out of its financial problems by creating a bank of tumor samples, which had been "painstakingly collected and preserved" by AntiCancer for years, the company said.

As a result of that partnership, described in the complaint as an independent contractor relationship, the company PDOX — then doing business as AntiCancerPDOX — was formed. Ellman then began using the PDOX mark in AntiCancerPDOX's advertisements and to investors.

But Ellman wasn't looking for a fair deal, AntiCancer said. Although he and his cohorts "had been seeing dollar signs" for years, it wasn't until a rival was bought in December for \$400 million that they realized the potential value of the tumor bank, according to the complaint.

"Seeing this huge sale, their greed got the better of them, and they decided that they were better off shunting AntiCancer to the side rather than keeping the company as a business partner," AntiCancer said. "They decided to take the tumor bank and leave AntiCancer high and dry."

AntiCancer is seeking around \$25 million for Ellman's purported theft of intellectual and physical property, \$3 million for research AntiCancer says it has already performed and nearly \$113,000 for unpaid fees under the parties' agreement.

Counsel for AntiCancer and representatives for PDOX, now doing business as Certis Oncology Solutions, did not immediately respond to requests for comment on Tuesday.

AntiCancer is represented by Matt Valenti of The Law Office of Matt Valenti.

Counsel information for Ellman was not immediately available on Tuesday.

The case is AntiCancer Inc. v. PDOX Inc. et al., case number 3:18-cv-01543, before the U.S. District Court for the Southern District of California.

--Editing by Stephen Berg.