

Intellectual Property

BREAKING NEWS

PTAB Grants Motion for Judgment of No Interference-In-Fact Based on a Finding That There Was No Reasonable Expectation of Success that CRISPR-Cas9 Could Be Used in Eukaryotic Cells

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On February 15, 2017 the Patent Trial and Appeal Board (PTAB) from the United States Patent and Trademark Office released its decision and judgment in Interference No. 106,048, *The Broad Institute, Inc., et al. v. The Regents of the University of California, et al.* The interference was requested by the University of California (UC) and was declared by the PTAB in early 2016. The interference involved a patent application filed by UC and 12 patents and a patent application filed by The Broad Institute (Broad), all directed to CRISPR-Cas9 Technology, which is used to cleave and edit DNA.

Represented by a Jenner & Block team, Broad filed a motion requesting that the interference be terminated because all of the claims in the Broad's patents and patent application were directed to the use of CRISPR systems in eukaryotic cells, but none of UC's claims were so limited. After briefing and [an argument before the PTAB in December](#), the PTAB agreed with the arguments presented by Broad and determined that "the evidence shows that the invention of [CRISPR-Cas9] systems in eukaryotic cells would not have been obvious over the invention of CRISPR-Cas9 systems in any environment, including in prokaryotic cells or *in vitro*, because one of ordinary skill in the art would not have reasonably expected a CRISPR-Cas9 system to be successful in a eukaryotic environment." For that reason, [the PTAB granted Broad's motion and terminated the interference.](#)

To view the decision, click [here](#).

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