

Ingenious Labs Inc ('Ingenious')  
**APPELANT**

v.

Erewhon Health Corporation ('EHC')  
**RESPONDANT**

SKELETON ARGUMENT FOR THE APPELANT

**I. The invention process is patentable :**

a). The invention is really an invention and not a discovery.

– Community Directive 44/98 of 6 July 1998 (articles 5-1).

b). The invention does not contradict the public policy.

– Community Directive 44/98 of 6 July 1998 (article 5-2).

– EPO, 8 December 1994, Relaxine.V 0008/94.Howard Florey Institute vs. Fraktion der Grunen. im Europaischen Parlament and Paul Lannoye.

– EPO, 3<sup>rd</sup> April 1992, Harvard oncogenic Mouse case, V 0006/92

c). The invention is novel.

d). The condition of inventive step is fulfilled

– European Patent Agreement. Article 56.

– Paris Court of Appeal, 22 March 1990, PIBD 1990, 481. III. p. 411.

– Paris Civil Trial, 14 Novemver 1985, PIBD 1986, III. p. 90.

– Paris Court of Appeal, 10 October 1990, PIBD 1991, 492. III. p. 33.

**II. The revocation under the article 27(b) : the description and the claim should be interpreted as including the recombination process of rCT protein.**

– EPO, CRT, 27 nov. 1986 T 68/85, JOOEB 1987, 228.

– EPO, CRT, 23 déc. 1986, T 139/85, 3.3.1.

– EPO, CRT, 27 jan. 1988, T 292/85, 3.3.2 JOOEB 1989, 275.

– French Supreme Court, 4<sup>th</sup> January 1994.

- Jean-Marc Mousseron, *Traité Litec*, 1984, p. 670 n° 676.
- French Supreme Court, Commercial Court, 15 July 1987, *Sté Guima vs. Sté Les Bennes Marrel*.
- French Supreme Court, Commercial Court, 13 December 1988, *Sanofi animal santé and others vs. Co. under American law Pfizer Inc and others; Union des fabricants d'aliments composés (UFAC) vs Co. under American law Pfizer Inc and others*.

**III. Conclusion : the infringement suit should succeed.**