No. _____

IN THE
Supreme Court of the United States
————

BIOGEN MA INC.,

Petitioner,

v.

EMD SERONO, INC., PFIZER INC.,

Respondents.

————

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Federal Circuit**

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PETITION FOR A WRIT OF CERTIORARI

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NICHOLAS GROOMBRIDGE
ERIC ALAN STONE
PETER SANDEL
JENNY C. WU
JOSEPHINE YOUNG
PAUL, WEISS, RIFKIND
  WHARTON & GARRISON
  LLP
1285 Ave. of the Americas
New York, NY 10019
(212) 373-3000

JEFFREY A. LAMKEN
  Counsel of Record
MOLOLAMKEN LLP
The Watergate, Suite 500
600 New Hampshire Ave., N.W.
Washington, D.C. 20037
(202) 556-2000
jlamken@mololamken.com

Counsel for Petitioner

QUESTION PRESENTED

The patent in this case claims a method of medical treatment that requires use of a "recombinant," or synthetic version, of a human protein. That synthetic, recombinant version does not exist in nature. The Federal Circuit held, in violation of this Court's longstanding precedent, that the claim term "recombinant" must be ignored in assessing whether the method of treatment is novel. The question presented is:

Whether courts may disregard the express claim term "recombinant" so as to render a method-of-treatment patent anticipated—and thus invalid—in light of prior-art treatments that used the naturally occurring human protein, where it is undisputed that the recombinant protein was not used in the prior art?

(i)

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PARTIES TO THE PROCEEDINGS

Petitioner is Biogen MA Inc. ("Biogen"). Respondents are EMD Serono Inc. and Pfizer Inc. (together except where noted, "Serono").

Bayer Healthcare Pharmaceuticals, Inc. and Novartis Pharmaceuticals Corp. (together except where noted, "Bayer") were defendants in a parallel district court proceeding, previously consolidated with this case but later severed, at Bayer's request.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of the Rules of this Court, Petitioner Biogen MA Inc. states that it is a wholly owned subsidiary of Biogen Inc., which is a publicly held corporation traded on the Nasdaq Stock Market under the symbol BIIB. No other publicly held corporation owns 10% or more of the stock in Biogen MA Inc.

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