

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PROGENICS PHARMACEUTICALS, INC.,
AND EXINI DIAGNOSTICS AB,

Plaintiffs,

v.

MIM SOFTWARE INC.,

Defendant.

Civil Action No. 24-10437-PBS

**DEFENDANT’S MOTION TO DISMISS SECOND AMENDED
COMPLAINT AND REQUEST FOR ORAL ARGUMENT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and Local Rule 7.1, Defendant MIM Software, Inc. (“MIM”) hereby moves to dismiss Plaintiffs Progenics Pharmaceuticals, Inc. and EXINI Diagnostics AB’s (collectively, “Progenics”) Second Amended Complaint for failure to state a claim upon which relief can be granted. As explained in detail in the accompanying Memorandum of Law, the grounds for this Motion are that (1) four of the seven asserted patents—U.S. Patent Nos. 10,665,346, 11,424,035, 11,894,141, and 11,941,817—claim unpatentable subject matter under 35 U.S.C. § 101; and (2) the Second Amended Complaint fails to plausibly allege that any of the accused products infringe any claim of the remaining three patents—U.S. Patent Nos. 10,973,486, 11,657,508, and 11,721,428.

WHEREFORE, MIM respectfully requests that the Court dismiss Progenics’ Second Amended Complaint in its entirety with prejudice.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Defendants respectfully request oral argument to assist with the Court's consideration of this Motion and to allow counsel the opportunity to address any issues raised by, or questions posed by, the Court.

Dated: June 17, 2024

Respectfully submitted,

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LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), I, Lisa J. Pirozzolo, hereby certify that counsel for Defendant conferred with counsel for Plaintiffs on June 13, 2024, in good faith in an attempt to resolve this motion. The parties were not able to do so.

/s/ Lisa J. Pirozzolo
Lisa J. Pirozzolo

CERTIFICATE OF SERVICE

I, Lisa J. Pirozzolo, hereby certify that on June 17, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will simultaneously serve as notice of such filing to counsel of record to their registered electronic mail address.

/s/ Lisa J. Pirozzolo
Lisa J. Pirozzolo