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Implications of Court Decision in Favor of iBio Against Fraunhofer

NEW YORK, NY -- (Marketwired) -- 08/15/16 -- **iBio, Inc.** (NYSE MKT: IBIO), a leading provider of plant-based biotechnology for developing and manufacturing biological products, commented further today on the impact of the recent Court decision in favor of iBio in its action against Fraunhofer and particularly to prevent Fraunhofer's August 8th press release from misleading the public about the implications of the decision.

In 2003, iBio engaged a newly-formed part of the German, Fraunhofer GmbH organization to be iBio's outsourced research and development arm, to act exclusively for iBio to develop and improve, at the direction of and together with iBio, a plant-based technology principally for human and animal health applications but also for industrial, agricultural and other possible applications, all to be owned by iBio. For years, the operations of iBio and the Fraunhofer unit were integrated to the extent that both were located in the same facility in Newark, Delaware, and the Executive Director of the Fraunhofer unit even came to have iBio-compensated roles first as iBio's Chief Scientific Officer and then as iBio's Chief Scientific Advisor, with full access to iBio's management, internal confidential information, and proprietary property.

In 2014, the eleventh year of iBio's continuous relationship with the Fraunhofer organization, iBio learned that the Fraunhofer unit was secretly using iBio's plant-based technology for Fraunhofer's own benefit and sharing it with a third party competitor of iBio. iBio was concerned that this fundamental breach was not an isolated incident. After an internal investigation, iBio terminated employment of the Executive Director of the Fraunhofer unit from his role as iBio's Chief Scientific Advisor. Then, after considerable but fruitless efforts on iBio's part to achieve a non-litigated resolution with Fraunhofer, iBio finally filed its lawsuit in the Delaware Court of Chancery against Fraunhofer (Civil Action No. 10156-VCMR) seeking a declaration of iBio's rights, damages and other remedies against Fraunhofer.

On July 29, 2016, the Delaware Court of Chancery issued a decision in that lawsuit on the question of the scope of iBio's ownership rights to technology and to receive transfer of plant-based technology, pursuant to its agreements with Fraunhofer. As Fraunhofer had earlier put it, this question was "the heart of the dispute".

The Court's opinion ruled decisively "in iBio's favor" that iBio is the exclusive owner of all the patents and unpatented aspects of the technology including know-how, developed or acquired through December 31, 2014, the end of the eleven-year period of Fraunhofer's exclusive development commitment to iBio. The ruling confirms that iBio's rights are comprehensive and encompass all proprietary rights of any kind in plant-based manufacturing technologies, techniques and methodologies and associated improvements, whether for expression of vaccines and therapeutic proteins or otherwise, whether previously

owned by Fraunhofer, developed for iBio, or otherwise. The Court rejected Fraunhofer's arguments that iBio's rights do not include know-how and are limited to certain patents and patent applications listed in a 2013 Confirmatory Assignment document. The decision states that Fraunhofer's reading of the contracts is "flawed", "strains the bounds of reasonableness" and "makes no sense"!

This ruling establishes beyond doubt that, in addition to owning at least twenty-four U.S. patents and sixty foreign patents granted or applied for by Fraunhofer, iBio also owns the valuable, unpatented aspects, such as extensive confidential data and other know-how, developed or acquired by Fraunhofer over the eleven-year engagement of Fraunhofer by iBio. iBio's intellectual property includes, for example, the designs and operating programs of Fraunhofer's Newark, Delaware prototype and pilot plants, and information related to the manufacturing process and all parameters, conditions, equipment, specifications, and standard operating procedures applied to a wide range of products. As another example, this also includes the developed expertise as to what does or does not work to obtain commercial scale protein yield and purity.

Nevertheless, on August 8, 2016, Fraunhofer issued a press release that would confuse rather than illuminate the implications of the Court's ruling by creating the erroneous impression that Fraunhofer has rights in the technology substantially greater than the very limited rights actually licensed back to Fraunhofer by iBio, the exclusive owner of all of the rights. In its release, Fraunhofer states that it "possesses a royalty-free license to conduct research using [iBio's] technology in any field, including human vaccines, human antibodies, and human therapeutics." The next sentence goes on to say that Fraunhofer "also possesses an exclusive worldwide license to commercialize that technology for applications outside of the defined iBio field."

In implying it has broad rights to iBio's technology, Fraunhofer fails to disclose: that its research license has been and is solely for internal, non-commercial purposes without the right to sublicense others; and that Fraunhofer's license for commercial purposes is very limited because the "iBio field" (which is excluded from Fraunhofer's commercial license and which is reserved exclusively for iBio's ownership, use and exploitation) includes all preventive and therapeutic human health applications of the technology, including expression, engineering, testing, production and validation of human vaccines, human antibodies, human therapeutics, as well as influenza vaccine antigens for veterinary use, and antibodies for influenza diagnostics produced in plants, including commercial process and production techniques and methodologies related to those applications. Fraunhofer also leaves out that, under Fraunhofer's very limited commercial license from iBio (which Fraunhofer has never admitted using), it would owe a royalty to iBio of 9% of any receipts of Fraunhofer or any sublicensee of Fraunhofer from the use of any of iBio's technology. Moreover, even these limited license rights Fraunhofer claims may be affected by further Court proceedings addressed to damages and other remedies for Fraunhofer's egregious breaches of the parties' agreements.

Fraunhofer's August 8th press release creates further public confusion by stating it has "sole ownership of the technology and any improvements developed by Fraunhofer after December 31, 2014 in any field", because Fraunhofer fails to reveal or explain that any technology or improvement developed by Fraunhofer after 2014 could neither be shared with a third party, nor used, for commercial purposes without iBio's consent if it stemmed from or

used (directly or indirectly) any of iBio's intellectual property, confirmed by the Court comprehensively to include any and all proprietary rights existing as of December 31, 2014 in the plant-based area, provided under federal, state or common law, including trade secrets and know how.

iBio urges careful examination of the ruling of the Court of Chancery in *iBio, Inc. v. Fraunhofer U.S.A., Inc.* before dealing with the property that is the subject of the litigation.

About iBio, Inc.

iBio is developing proprietary products for the treatment of a range of fibrotic diseases including idiopathic pulmonary fibrosis, systemic sclerosis, and scleroderma. IBIO-CFB03, produced using the Company's proprietary gene expression technology, is the first product candidate from this program being advanced for IND development. The Company also offers proprietary products and product licenses to others based on its proprietary technologies, including its advanced plant-based gene expression and protein production platforms, providing collaborators full support for turn-key implementation of its technology for protein therapeutics and vaccines.

iBio CMO LLC is a 70 percent subsidiary of iBio jointly owned with affiliates of Eastern Capital Limited for development and large-scale manufacture of plant-made pharmaceuticals. The iBio CMO multiproduct facility includes laboratory and pilot-scale operations as well as large-scale automated hydroponic systems capable of growing over 4 million plants as "in process inventory" and producing over 300 kilograms of finished therapeutic protein per year. This translates into more than a half million doses per year of a typical therapeutic antibody and approximately 50 million vaccine doses every three weeks. Facility capacity can be doubled by adding additional plant growth equipment in a space already reserved for that purpose. iBio CMO's lease includes the right to develop another facility on the balance of the leased property that would have the effect of quadrupling capacity from the current level. iBio CMO offers a range of pharmaceutical product and process development, analytical, and manufacturing services.

In Brazil, iBio has formed a subsidiary company, iBio do Brasil Biofarmaceutical Ltda., and has been collaborating with the Oswaldo Cruz Foundation (Fiocruz) to develop a recombinant yellow fever vaccine based on iBio technology. Further information is available at: www.ibioinc.com.

FORWARD-LOOKING STATEMENTS

STATEMENTS INCLUDED IN THIS NEWS RELEASE RELATED TO IBIO, INC. MAY CONSTITUTE FORWARD-LOOKING STATEMENTS WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. SUCH STATEMENTS INVOLVE A NUMBER OF RISKS AND UNCERTAINTIES SUCH AS COMPETITIVE FACTORS, TECHNOLOGICAL DEVELOPMENT, MARKET DEMAND, AND THE COMPANY'S ABILITY TO OBTAIN NEW CONTRACTS AND ACCURATELY ESTIMATE NET REVENUES DUE TO VARIABILITY IN SIZE, SCOPE AND DURATION OF PROJECTS. FURTHER INFORMATION ON POTENTIAL RISK FACTORS THAT COULD AFFECT THE COMPANY'S FINANCIAL RESULTS CAN BE FOUND IN THE COMPANY'S REPORTS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION.

Source: iBio, Inc.