

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ENZO LIFE SCIENCES, INC.,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 12-274-LPS
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
ABBOTT LABORATORIES, and	)	
ABBOTT MOLECULAR INC.,	)	
	)	
Defendants.	)	

**ANSWER, DEFENSES AND COUNTERCLAIMS  
TO PLAINTIFF’S AMENDED COMPLAINT**

Defendants Abbott Laboratories and Abbott Molecular Inc.’s (collectively “Abbott”) answer Plaintiff Enzo Life Sciences Inc.’s (“Enzo” or “Plaintiff”) Amended Complaint as follows. The numbered Paragraphs below correspond to the numbered Paragraphs in the Amended Complaint:

**PARTIES**

1. Admitted, based on information and belief.
2. Admitted.
3. Admitted.

**NATURE OF THE ACTION**

4. This Paragraph contains legal conclusions to which no response is required. To the extent that a response is deemed required, Abbott admits that Enzo’s Amended Complaint is purportedly for the alleged infringement of United States Patent Nos. 6,992,180 (“the ‘180 Patent”) and 7,064,197 (“the ‘197 Patent”) under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.* Abbott denies all other allegations of Paragraph 4.

**JURISDICTION AND VENUE**

5. This Paragraph contains legal conclusions to which no response is required. To the extent that a response is deemed required, Abbott admits this Court has subject matter jurisdiction over this action. Abbott denies all remaining allegations in Paragraph 5.

6. This Paragraph contains legal conclusions to which no response is required. Abbott Molecular admits that it is a Delaware corporation and is subject to personal jurisdiction in Delaware. Abbott Laboratories, without admitting any allegations in paragraph 6, does not challenge personal jurisdiction by this Court for this matter only. Abbott denies all remaining allegations in Paragraph 6.

7. This Paragraph contains legal conclusions to which no response is required. Abbott, without admitting any allegations in paragraph 7, does not challenge personal jurisdiction by this Court for this matter only. Abbott denies all allegations in Paragraph 7.

8. This Paragraph contains legal conclusions to which no response is required. To the extent that a response is deemed required, Abbott does not currently contest that venue in this Court is proper for purposes of this action only.

**The Patents-In-Suit**

9. This Paragraph contains legal conclusions to which no response is required. To the extent that a response is deemed required, Abbott admits the '180 Patent is entitled "Oligo-Or Polynucleotides Comprising Phosphate-Moiety Labeled Nucleotides," the issue date is January 31, 2006, and that an uncertified copy of the '180 Patent was attached as Exhibit A to Plaintiff's Amended Complaint. Abbott denies that the '180 Patent was duly or legally issued, and further denies any remaining allegations in Paragraph 9.

10. Abbott lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10, and therefore, denies the same.

11. This Paragraph contains legal conclusions to which no response is required. To the extent that a response is deemed required, Abbott admits the '197 Patent is entitled "System, Array and Non-Porous Solid Support Comprising Fixed or Immobilized Nucleic Acids," the issue date is January 31, 2006, and that an uncertified copy of the '197 Patent was attached as Exhibit B to Plaintiff's Amended Complaint. Abbott denies that the '197 Patent was duly or legally issued, and further denies any remaining allegations in Paragraph 11.

12. Abbott lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12, and therefore, denies the same.

### **COUNT I**

#### **Infringement of the '180 Patent**

13. Abbott repeats and reasserts its responses to Paragraphs 1-12 as if fully set for herein.
14. Denied.
15. Denied.
16. Denied.
17. Denied.
18. Denied.
19. Denied.

**COUNT II**

**Infringement of the '197 Patent**

20. Abbott repeats and reasserts its responses to Paragraphs 1-19 as if fully set for herein.

21. Denied.

22. Denied.

23. Denied.

**DEFENSES**

24. Abbott denies that Enzo is entitled to any relief against Abbott.

25. Upon information and belief, Abbott asserts defenses to the Amended Complaint in the following paragraphs. By asserting such defenses, Abbott does not concede that it has the burden of proving the matters asserted.

**First Defense**

26. Abbott has not infringed and is not infringing, directly, contributorily, or by inducement, any valid and enforceable claim of the '180 Patent either literally or under the doctrine of equivalents. Abbott is not liable in any respect for any alleged infringement of the '180 Patent by anyone else.

**Second Defense**

27. Each of the claims of the '180 Patent is invalid or unenforceable for failing to comply with one or more of the requirements for patentability pursuant to one or more provisions specified in 35 U.S.C. §§ 101, 102, 103, and 112.

**Third Defense**

28. On information and belief, the '180 Patent is unenforceable due to the inequitable conduct of the inventors of the '180 Patent and/or Enzo employees and/or other representatives substantively involved in the preparation or prosecution of the application that issued as the '180 Patent and/or their attorneys and/or agents (collectively "Enzo and its agents"). Abbott incorporates by reference as fully stated herein Paragraphs 50 - 89 of their Counterclaims below.

**Fourth Defense**

29. Plaintiff's Amended Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

**Fifth Defense**

30. Each of the claims of the '180 Patent is invalid and void pursuant to the doctrine of obviousness-type double patenting.

**Sixth Defense**

31. Enzo's allegations of infringement of the '180 Patent are barred because the '180 Patent is unenforceable due to prosecution laches.

**Seventh Defense**

32. Abbott has not infringed and is not infringing, directly, contributorily, or by inducement, any valid and enforceable claim of the '197 Patent either literally or under the doctrine of equivalents. Abbott is not liable in any respect for any alleged infringement of the '197 Patent by anyone else.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.