

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

ENZO LIFE SCIENCES, INC.,)	
)	
Plaintiff,)	
)	C.A. No. 12-274-LPS
v.)	
)	JURY TRIAL DEMANDED
ABBOTT LABORATORIES, and)	
ABBOTT MOLECULAR INC.,)	
)	
Defendants,)	
)	
and)	
)	
LUMINEX CORPORATION,)	
)	
Intervening Defendant.)	

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

Defendants Abbott Laboratories and Abbott Molecular Inc. answer the Second Amended Complaint for Patent Infringement of Plaintiff Enzo Life Sciences Inc. as follows. The numbered paragraphs below correspond to the numbered paragraphs in the 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 a response is required, Abbott admits that Enzo’s complaint is purportedly for the alleged infringement of United States Patent Nos. 6,992,180 (“the ‘180 Patent”), 7,064,197 (“the

‘197 Patent”), and 8,097,405 (“the ‘405 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 a response is required, Abbott admits this Court has subject matter jurisdiction over this action. Abbott denies the remaining allegations in paragraph 5.

6. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Abbott does not contest personal jurisdiction in this Court for purposes of this action only. Abbott denies the remaining allegations in paragraph 6.

7. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Abbott does not contest personal jurisdiction in this Court for purposes of this action only. Abbott denies the remaining allegations in paragraph 7.

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

The Patent-In-Suit

9. This paragraph contains legal conclusions to which no response is required. To the extent a response is 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 is attached as Exhibit A to Enzo’s Second 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 a response is 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 is attached as Exhibit B to Enzo's Second 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.

13. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Abbott admits that the '405 patent is entitled "Nucleic Acid Sequencing Processes Using Non-Radioactive Detectable Modified or Labeled Nucleotide Analogs, and Other Processes for Nucleic Acid Detection and Chromosomal Characterization Using Such Non- Radioactive Detectable Modified or Labeled Nucleotides or Nucleotide Analogs," that the issue date is January 17, 2012, and that an uncertified copy of the '405 patent is attached as Exhibit C to Enzo's Second Amended Complaint. Abbott denies that the '405 patent was duly or legally issued, and further denies the remaining allegations in paragraph 13.

14. Abbott lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14, and therefore, denies the same.

COUNT I

Infringement Of The '180 Patent

15. Abbott repeats and reasserts its responses to paragraphs 1-14 as if fully set forth herein.

16. Denied.

17. Abbott admits that in April 2007 it entered into a cross-license agreement with Enzo that names the '180 patent. Abbott denies the remaining allegations of paragraph 17.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

COUNT II

Infringement Of The '197 Patent

22. Abbott repeats and reasserts its responses to paragraphs 1-21 as if fully set forth herein.

23. Denied.

24. Abbott admits that in April 2007 it entered into a cross-license agreement with Enzo that names the '197 patent. Abbott denies the remaining allegations of paragraph 24.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

COUNT III

Infringement Of The '405 Patent

29. Abbott repeats and reasserts its responses to paragraphs 1-28 as if fully set forth herein.

30. Denied.

31. Abbott admits that it became aware on or about January 18, 2013 that Enzo planned to allege that Abbott infringes the '405 patent. Abbott denies the remaining allegations of paragraph 31.

32. Denied.

33. Denied.

34. Denied.

DEFENSES

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

36. Upon information and belief, Abbott asserts defenses to the 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

37. Abbott has not infringed and is not infringing, directly, contributorily, or by inducement, any valid and enforceable claim of the '180 patent, the '197 patent, or the '405 patent, either literally or under the doctrine of equivalents. Abbott is not liable in any respect for any alleged infringement of the '180 patent, the '197 patent, or the '405 patent by anyone else.

Second Defense

38. Each of the claims of the '180 patent, the '197 patent, and the '405 patent is invalid 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, 112, and other judicially created bases for invalidity including obviousness-type double patenting.

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