**John L. Smith, Ph.D.**
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## PROFESSIONAL EXPERIENCE

**Consultant** 1998-2004, 2006-Present

Independent consultant in the areas of analytical chemistry, clinical chemistry, blood glucose monitoring, noninvasive blood measurements, grape growing, winemaking, patent prosecution and litigation. Performed technological evaluations for invasive and noninvasive monitoring of blood glucose. Qualified in U.S. Federal Court as an expert witness in the fields of Clinical Chemistry, Blood Glucose Monitoring, Cholesterol Testing, Dry Chemistry Test Strip Technology and the Chemistry of Wine. Participated as expert witness in patent infringement litigation, including consulting, expert reports, depositions, and court testimony in Markman hearings, arbitrations, bench trials and jury trials.

**Fovioptics, Inc. Santa Clara, CA** 2003-2006

Consultant 2003-2004
President and CEO 2004-2005
Sr. VP and Chief Technical Officer 2005-2006

Exited retirement to become early-stage CEO for a startup company developing a noninvasive glucose monitor. Obtained Series B financing ($4.35M), relocated company to Santa Clara from Lexington, KY, completed feasibility and proof of principle studies, hired professional CEO and professional staff, assisted in obtaining Series C financing ($19.7M). Returned over $17M to investors when the technology was found not to be commercially viable.

**LifeScan. Inc. (Johnson & Johnson) Milpitas, CA** 1987-1998

Vice President and Chief Scientific Officer 1995-1998
Worldwide Vice President, R, D & E 1994-1995
Vice President, R, D & E 1987-1994

Responsible for the invention, research and development of novel technology for the world market leader in blood glucose monitoring. Directed the activities of 180 professionals in applied and advanced research and in product development. Conducted fundamental research into noninvasive techniques for measurement of blood glucose, both in-house and through research contracts worldwide. Evaluated over 100 technologies intended for noninvasive measurement of blood glucose. Managed research and development efforts for new products and technology to enable diversification of LifeScan's product line. Responsible for the establishment and maintenance of LifeScan's patent portfolio, and liaison with corporate and outside counsel for all patent infringement litigation. Retired in 1998.

**Baker Instruments Corporation Allentown, PA** 1984-1987

Vice President, R, D & E - Responsible for entire development process, from conception to pilot production of new instruments for clinical chemistry and hematology; development and implementation of new analytical procedures, improved clinical methods, and reagent formulations. Directed the activities of 30 professionals, including engineers, chemists, and scientists from technician to Ph.D. level. Responsible for

negotiation of research contracts and licensing arrangements for new technology in physicians' office test kits, allergy research, and novel immunoassay techniques. Budget responsibility for $4.5 million annual expense budget, including administration of research contracts. Planning, scheduling and cost estimation for new projects.

**Technicon Instruments Corporation (now Siemens) Tarrytown, NY** 1978-1984

Staff Systems Engineer (1978-1982) - Directed a research and engineering group to extract revenue-producing products from proprietary but unexploited technology. Developed fundamentals which led to the development of the RA-1000 Analyzer, led the team which conceived and demonstrated feasibility of the Chem-1 Analyzer.
Director, Decentralized Testing Technology (1982-1984) - Responsibility for about fifty percent of the Applied Research program, including semiconductor biosensors, dry chemistry technology, and colorimetric methods for sodium and potassium. Technical member of negotiating team to develop a joint venture with a major Japanese chemistry company. Extensive contact with and administration of academic research programs and contract research projects.

**Princeton Applied Research Corporation (EG&G) Princeton, NJ** 1974-1978

Manager, Product Development - Directed a group of 14 engineers in the development of electrochemical analytical instruments for research, quality control, corrosion and chromatography. Inventor of the static mercury drop electrode which allowed significant increases in sensitivity of electrochemical analysis. Developed the first microprocessor-controlled electroanalytical instrument and wrote the assembly-language software for the user interface, calculation and presentation of results.

**Union Carbide Corporation Tarrytown, NY** 1970-1974

Analytical Chemist - Developed methods and performed analysis for organic functional groups, trace metals, silicones, and polymers for research support, competitive products, and technical support for customers.

**Additional Full-time Positions Held Prior to or During Graduate School:**

Hospital laboratory chemist and computer systems analyst; supervisor of raw material quality control for a pharmaceutical company; chief technician for a feed and fertilizer analytical laboratory; delivery truck driver; sales clerk.

**EDUCATION:**

Ph.D. Analytical Chemistry, University of Illinois, Urbana, IL 1970. Thesis topic:
Analysis of Polymers via Photolysis-Gas Chromatography (R.S. Juvet)
B.S. Chemistry, Butler University, Indianapolis, IN 1966.

**U.S. PATENTS (most with foreign counterparts):**

4,142,944 Apparatus and Method for Effluent Stream Analysis (Liquid Chromatography Detector)
4,260,467 Static Mercury Drop Electrode (Analytical system for electrochemistry)
4,422,773 Apparatus and Method for the Non-Invasive Mixing of a Flowing Stream (mixing coil for blood analyzers)
4,515,753 Integral Reagent Dispenser (Reagent Container for Technicon Chem-1)
4,602,995 Liquid Level Adjusting and Filtering Device (Sample tube for blood serum)

4,853,336 Apparatus for Random-Access Continuous-Flow Analysis (Technicon Chem-1 system)
5,526,120 Test Strip with an Asymmetrical End Insuring Correct Insertion for Measuring (SureStep Blood Glucose Test Strip)
5,753,452 Reagent Test Strip for Blood Glucose Determination (One Touch Test Strip)
5,972,294 Reagent test strip for determination of blood glucose (One Touch Test Strip)

**PUBLISHED U.S. PATENT APPLICATIONS:**

20050010091A1: Non-invasive measurement of blood glucose using retinal imaging (use of regeneration rate of visual pigments in the retina to measure blood glucose), and continuations 20050245796A1, US20060020184A1, US20050267344A1, 20050267343A1

**MEMBERSHIPS AND ASSOCIATIONS:**

| | |
|---|---|
| American Chemical Society | 1964 - 1998 |
| Greiner Instruments Scientific Advisory Board, Langenthal, Switzerland | 1986 - 1987 |
| Adjunct Professor of Chemistry, San José State University | 1991 - 1997 |
| El Dorado Winery Association | 1993-2012 |
| Fair Play Winery Association (President, 2000-2001) | 1997-2012 |
| Member, El Dorado County Agricultural Commission: | 2009-present |

**OTHER ACTIVITIES**

Founder, Oakstone Winery, Inc. and Obscurity Cellars, Fair Play, CA
Owner, Oakstone Vineyards
Instructor, San José State University: Advanced Analytical Chemistry, Patents in Chemistry, and The Chemistry of Wine
United Way Campaigns—Company and community chairman.
Pioneer Fire Protection District—member, long-range planning committee, ordinance committee
Book: *The Pursuit of Noninvasive Glucose: "Hunting the Deceitful Turkey" (2nd Edition, 2011).*
http://www.mendosa.com/noninvasive_glucose.pdf

**Expert Witness Filings and Testimony in Federal Court for John L. Smith** (all in patent infringement litigation)

LifeScan, Inc., v. Home Diagnostics, Inc., and MIT Development Corporation, United States District Court for Northern California, case #5:92cv20811 (for plaintiff). Filed expert reports, deposition testimony as expert and percipient witness. Judgment of infringement for LifeScan after a CAFC ruling against lower court claim interpretation.

LifeScan, Inc. v. Can-Am Care Corp Diagnostic Solutions, Inc., United States District Court for Northern California, case #5:93cv20430 (for plaintiff). Filed expert report, court testimony on hearing for permanent injucntion. Matter settled out of court

LifeScan, Inc. v. Polymer Technology International, Issaquah, WA. United States District Court for the Western District of Washington, Case #93-6983 (for Plaintiff). Filed expert reports, provided deposition and trial testimony, LifeScan was awarded a judgment of willful infringement, a permanent injunction and attorney's fees.

LifeScan, Inc., v. Home Diagnostics, Inc., and MIT Development Corporation, United States District Court for the District of Delaware, Civil Action 96-597JJF (for Plaintiff). Deposition and trial testimony, March, 1999. LifeScan was awarded jury verdict of ~$6 million; overturned on a JMOL.

Abbott Laboratories, Inc., v. LifeScan, Inc., and SelfCare, Inc. United States District Court for the District of Massachussetts, Civil Action #98-CV12053EFH (for Defendant). Expert report, deposition testimony, July, 2000. Matter settled under seal.

Home Diagnostics, Inc., v. LifeScan, Inc., United States District Court for the Northern District of California, Case #99-21269JW (for Defendant). Deposition testimony (evidentiary deposition to establish qualification under a protective order), March, 2001. Matter settled out of court.

LifeScan, Inc., v. Diagnostics Solutions, Inc., American Arbitration Association Case #801330004900, Irvine, CA, March - May, 2001 (for Plaintiff). Fact witness deposition, 30(b)(6) deposition, expert deposition, arbitration testimony, May 2001. Arbitration award in favor of LifeScan, including attorney's fees.

LifeStream Diagnostics, Inc. v. Polymer Technology Systems, Inc., United States District Court for the District of Idaho, Coeur D'Alene Division, Case No. CV 00-0300-N-MHW (for defendant). Two Expert reports, expert deposition, Markman hearing court testimony, January 2003. Favorable Markman ruling obtained, judgment of noninfringement entered for LifeStream.

Abbott Diabetes Care, Inc. and Abbott Laboratories v. AgaMatrix, Inc., United States District Court for the Northern District of California, San Jose Division, Case #C 06 07268-JF (for defendant),. Filed expert reports re claim interpretation, deposition testimony. Case settled out of court (2007-2009).

Becton Dickenson and Company v. Insulet, United States District Court, District of New Jersey, Case# 10-04371-PGS –ES (for defendant). Retained as expert (2011)

Medtronic, et al. v Insulet, United States District Court for Central California, Case No. 2:12-CV-8048-PA-CWx (for defendant). Retained as expert, filed declarations on claim
constuction, expert report on noninfringement (2013). Matter settled 9/18/13. (2013)

Masimo Corp. v. Philips Electronics North American Corporation and Philips Medizin Systeme Böblingen GmbH, Civil Action No. 1:09-cv-00080-JJF-MPT United States District Court for the District of Delaware. For Plaintiff, retained as expert. (2013)

Masimo Corporation ("Masimo") and Cercacor Laboratories, Inc. ("Cercacor") arbitration against Nova Biomedical Corporation, JAMS Reference # 1220045324, for Masimo, retained as consultant. (2013)

Pharmatech Solutions, Inc *inter partes* review of U.S. Patent No. 7,250,105, assigned to LifeScan Scotland Ltd. For LifeScan, retained as consultant. filed declaration before the USPTO Patent Trial and Appeal Board, (2013).