

Filed on behalf of: **Party Lo**

Paper _____
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HEI-MUN CHRISTINA FAN and STEPHEN **QUAKE**
Junior Party
(Patent 8,195,415),

v.

YUK-MING DENNIS **LO**, ROSSA WAI KWUN CHIU, and KWAN CHEE CHAN
Senior Party
(Application 13/070,266).

Patent Interference No. 105,922 (DK)
(Technology Center 1600)

LO LIST OF PROPOSED MOTIONS

SEOUENOM EXHIBIT 1021

1 Pursuant to 37 C.F.R. §§ 41.120 and 41.204(b), and ¶¶ 104.2.1, 120, and 204 of
2 the Standing Order (Paper 2), Party Lo provides notice of its proposed motions.

3
4 **Motion Under Bd.R. 121(a)(1)(ii) to**
5 **Change Benefit Accorded for the Contested Subject Matter:**

6 (1) motion to be accorded benefit of Party Lo's provisional Application No.
7 60/951,438, filed July 23, 2007, because this application constitutes a constructive
8 reduction to practice of an embodiment within the scope of Count 1.

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10 **Motion Under Bd.R. 121(a)(1)(iii) for Judgment in the Contested Case:**

11 (2) motion for judgment on the ground that Party Quake's involved claims are
12 unpatentable under 35 U.S.C. §§ 102 and 103 in view of the following prior art
13 references:

14 1. Yuk-Ming Dennis Lo et al., "Diagnosing Fetal Chromosomal Aneuploidy Using
15 Massively Parallel Genomic Sequencing," US 2009/0029377, filed 23 July 2008 and
16 published 29 January 2009, which claims benefit of (and incorporates by reference)
17 Provisional Application No. 60/951,438, filed 23 July 2007;

18 2. Richard A Shimkets, "Sequence-Based Karyotyping," US 2005/0221341,
19 published 6 October 2005;

20 3. Tian-Li Wang et al., "Digital Karyotyping," US 2004/0096892, published 20
21 May 2004;

22 4. Tian-Li Wang et al., "Digital karyotyping," Proc. Natl. Acad. Sci.,
23 99(25):16156-61 (10 December 2002);

- 1 5. Juliane C. Dohm et al., “Substantial biases in ultra-short read data sets from
2 high-throughput DNA sequencing,” *Nucl. Acids Res.*, 36(16):e105 (26 July 2008);
- 3 6. Andrew D. Smith et al., “Using quality scores and longer reads improves
4 accuracy of Solexa read mapping,” *BMC Bioinformatics*, 9:128 (28 February 2008);
- 5 7. Rossa W. K. Chiu et al., “Noninvasive prenatal diagnosis of fetal
6 chromosomal aneuploidy by massively parallel genomic sequencing of DNA in maternal
7 plasma,” *Proc. Natl. Acad. Sci.*, 105(51):20458-63 (23 December 2008);
- 8 8. Yasuhito Nannya et al., “A robust algorithm for copy number detection using
9 high-density oligonucleotide single nucleotide polymorphism genotyping arrays,”
10 *Cancer Res.*, 65:6071-79 (2005);
- 11 9. LaDeana W. Hillier et al., “Whole-genome sequencing and variant discovery
12 in *C. elegans*,” *Nature Methods*, 5:183-88 (published online 20 January 2008; including
13 supplementary text and figures available from nature.com);
- 14 10. David R. Bentley et al., “Accurate whole human genome sequencing using
15 reversible terminator chemistry,” *Nature*, 456(7218):53-59 (6 November 2008); and
- 16 11. Susan M. Huse et al., “Accuracy and quality of massively parallel DNA
17 pyrosequencing,” *Genome Biology*, 8:R143 (20 July 2007).

18 Party Lo submits that Quake’s involved claims are anticipated or obvious in view
19 of reference 1, taken either alone or in combination with one or more of references 2-11.

20 Party Lo states that reference 1 is not applicable to Lo’s claims as the reference
21 is related to Lo’s involved application. See Bd.R. 207(c).

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1 **Motion for Judgment on Priority Under Bd.R. 121(a)(1)(iii):**

2 (3) motion for judgment on priority awarding the subject matter of the
3 interference to Party Lo based on an earlier date of invention.

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5 Party Lo reserves the right to seek authorization to file responsive motions under
6 Bd.R. 41.121(2).

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Respectfully submitted,

9 Dated: May 31, 2013

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Counsel for Party Lo

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **LO LIST OF PROPOSED MOTIONS** was served electronically via the PTAB Interference Web Portal e-filing system on Party Quake through its attorneys of record on this 31st day of May, 2013, as follows:

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