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Filed : April

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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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),

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

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**Order – Priority Times – Bd.R. 104(c)**

Before DEBORAH KATZ, *Administrative Patent Judge*.

SEQUENOM EXHIBIT 1022

Further to the Decision on Motions (Paper 101), this interference will proceed to the priority phase. A schedule is attached.

Before the motions phase, Lo requested authorization to file a motion for judgment that the claims of Fan's involved '415 patent are unpatentable under 35 U.S.C. §§ 102 and 103 in view of U.S. Patent Application Publication 2009/0029377 taken alone or in view of several other references. (Lo List of Proposed Motions, Paper 16, at 1-2.) On 9 December 2013, an *inter partes* review was instituted on a patentability challenge by Sequenom, Inc., a real party-in-interest of Lo (*see* Paper 4), to the claims of the '415 patent based on U.S. Patent Application Publication 2009/0029377 taken alone or in view of other references. *See Inter partes* Review 2013-00390, Paper 7. Because Lo has an opportunity to pursue the relief it proposed in such a motion elsewhere, any renewed request for authorization to file a similar motion during the priority phase of this interference will be denied. *See* 35 U.S.C. § 315(d).

#### A. Time periods associated with motions

The TIME PERIODS described below are set out in an Appendix to this ORDER. Action specified for each TIME PERIOD must be completed by the date specified for the TIME PERIOD. The parties should note that exhibits are no longer filed in Time Period 18. Exhibits should be filed along with the motions in which they are first cited.

The parties are authorized to stipulate different times (earlier or later, but not later than TIME PERIOD 17) for TIME PERIODS 11 through 16. A notice of the stipulation must be promptly filed. The notice must be in the form of a copy of the Appendix attached to this ORDER with old dates crossed out and new dates inserted by hand. The parties may not stipulate an extension of TIME PERIOD 17

or the default date for oral argument. In stipulating different times, the parties should consider the effect of the stipulation on times:

- (1) to object to evidence (5 business days, Bd.R. 155(b)(1)),
- (2) to supplement evidence (10 business days, Bd.R. 155(b)(2)),
- (3) to begin cross examination (no earlier than 21 days after service, SO ¶ 157.3.1) and
- (4) to conclude cross examination (at least 10 days before the opposition or reply is due, SO ¶ 157.3.2).

1. TIME PERIOD 11

The JUNIOR PARTY must file a motion on priority.

If the junior party does not file a priority motion, the JUNIOR PARTY must arrange a conference call with the parties and the Board so that appropriate action may be taken.

2. TIME PERIOD 12

The SENIOR PARTY must file any priority motion.

3. TIME PERIOD 13

File oppositions to all motions.

4. TIME PERIOD 14

File replies to all oppositions.

5. TIME PERIOD 15

- a. File any request for oral argument on priority,
- b. File motions to exclude evidence (Bd.R. 155(c); SO ¶ 155.2), and
- c. File observations on cross examination (SO ¶ 157.7) of reply testimony, and
- d. File a list of any issues other than priority that should be considered in

rendering a final decision in the interference.<sup>1</sup>

6. TIME PERIOD 16

- a. File oppositions to an opponent's motion to exclude evidence and
- b. File any response to observations.

7. TIME PERIOD 17

File replies to oppositions to motions to exclude evidence.

B. FILING EXHIBITS

A document larger than 25MB cannot be filed online. If a party needs to file a document larger than 25MB, unless otherwise instructed by order, please contact the board at the telephone number above to make other arrangements, such as sending a CD-ROM by Express Mail.

C. DEFAULT ORAL ARGUMENT DATE

If a request for oral argument (Bd.R. 124(a); TIME PERIOD 15) is granted, the default date for such argument is the date provided in the appendix below. No oral argument will occur if either no argument is requested or granted.

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<sup>1</sup> There is no need to list an issue previously resolved by a decision entered by a panel of at least three administrative patent judges inasmuch as these decisions merge with the judgment when a final decision is entered.

**Times for Priority Motions**  
**Interference 105,922**

- TIME PERIOD 11 ..... **23 May 2014**  
Junior Party only file priority motions and serve  
priority evidence
- TIME PERIOD 12 ..... **3 July 2014**  
Senior Party only file priority motion and serve  
priority evidence
- TIME PERIOD 13 ..... **15 August 2014**  
File opposition to priority motions and serve  
opposition evidence
- TIME PERIOD 14 ..... **26 September 2014**  
File reply and serve reply evidence
- TIME PERIOD 15 ..... **17 October 2014**  
Request oral argument  
File list of issues to be considered  
File observations  
File motion to exclude evidence
- TIME PERIOD 16 ..... **31 October 2014**  
File response to observations  
File opposition to motion to exclude
- TIME PERIOD 17 ..... **14 November 2014**  
File reply to opposition to motion to exclude
- TIME PERIOD 18 ..... **17 December 2014**  
Default oral argument date (if ordered)

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