

Case IPR2016-00820
U.S. Patent No. 7,064,197

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HOLOGIC, INC., and BECTON, DICKINSON AND COMPANY,
Petitioner

v.

ENZO LIFE SCIENCES, INC.,
Patent Owner

Case IPR2016-00820

U.S. Patent No. 7,064,197
TITLE: SYSTEM, ARRAY AND NON-POROUS SOLID SUPPORT
COMPRISING FIXED OR IMMOBILIZED NUCLEIC ACIDS
Issue Date: June 20, 2006

ENZO'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. § 42.64(b)

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner Enzo Life Sciences, Inc. (“Enzo”) submits these objections to the evidence submitted by Petitioners on April 5, 2017 with their Reply. Patent Owner is concurrently serving these objections on Petitioner as set forth in the below certificate of service. These objections are timely filed and served within five business days of the service of the evidence to which Enzo objects.

Exhibit	Portion(s) Objected To	Basis For Objection	Grounds For Objection
1037	¶¶ 3, 5	Fed. R. Evid. 602	<p>The declarant does not have personal knowledge that the protocol purportedly available at the website is the same protocol cited in the Diehl article.</p> <p>For example, the declarant does not have personal knowledge that the purported contents of the website have not changed between the alleged publication of the Diehl article in 2001 and the declarant’s purported access of the website in April 2017.</p>
1037	All	37 C.F.R. § 11.307(a)	<p>The declarant is back-up counsel for Petitioner Hologic, Inc. in this proceeding. The declarant is also a necessary fact witness in that her declaration is cited in Petitioners’ reply to support the purported authenticity and public accessibility of the Diehl protocol.</p> <p>37 C.F.R. § 11.307(a) states: “A practitioner shall not act as advocate at a proceeding before a tribunal in which the practitioner is likely to be a necessary witness unless: (1) The testimony relates to an</p>

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			uncontested issue; (2) The testimony relates to the nature and value of legal services rendered in the case; or (3) Disqualification of the practitioner would work substantial hardship on the client.”

Dated: April 12, 2017

Respectfully submitted,

/kkm/

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*Lead Counsel for Patent Owner
Enzo Life Sciences, Inc.*

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on April 12, 2017, a complete copy of the foregoing was served on counsel of record for the Petitioner by filing this document through PTAB E2E and by sending this document via electronic mail to the following addresses:

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Dated: April 12, 2017

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