

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

ENZO LIFE SCIENCES, INC.,

Plaintiff,

v.

**SIEMENS HEALTHCARE
DIAGNOSTICS INC.,**

Defendant.

Civil Action No. 12-cv-505-LPS

**PLAINTIFF’S SUPPLEMENTAL INFRINGEMENT CHARTS
FOR SIEMENS HEALTHCARE DIAGNOSTICS**

Pursuant to the Court’s Scheduling Order, Plaintiff Enzo Life Sciences, Inc. ("Plaintiff") hereby provides its Supplemental Infringement Charts to Defendant Siemens Healthcare Diagnostics Inc. ("Siemens").

Plaintiff contends that Siemens, either alone or in conjunction with others, has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of U.S. Patent No. 7,064,197 (“the ’197 patent”) (the “Patent-in-Suit”) by making, using, offering to sell, selling, and/or importing in or into the United States certain nucleic acid array products, including without limitation: VERSANT® HIV-1 RNA 3.0 Assay (bDNA), VERSANT® HCV RNA 3.0 Assay (bDNA), VERSANT® HBV bDNA 3.0 Assay (RUO), and all other nucleic acid products that use bDNA technology (collectively, “bDNA Products”); VERSANT Tissue Preparation Reagents Kit and all other nucleic acid products that utilize a bead for nucleic acid detection and/or isolation (“VERSANT Products”); and all other nucleic acid array products (collectively, the “Accused Products”). Plaintiff further contends that Siemens has actively induced, and continues to induce, the infringement of one or more claims

of the '197 patent under 35 U.S.C. § 271(b). At all relevant times, Siemens actively, knowingly, and intentionally induced others, including without limitation Siemens's customers to use, make, sell, offer for sale, and/or import the Accused Products, in a way that Siemens knew or should have known infringes one or more claims of the '197 patent. Plaintiff further contends that Siemens's infringement of the '197 patent has been, and continues to be, willful.

Plaintiff's infringement contentions are provided herein without the benefit of full discovery. The claim charts attached herein as Exhibits A and B identify where each limitation of the asserted claims of the '197 patent is found within the Accused Products. Plaintiff contends that each element of each asserted claim is literally present in the Accused Products unless otherwise indicated. But to the extent that any claim element is found not to be literally embodied in the accused instrumentalities, Plaintiff contends that the Accused Products embody such claim elements under the doctrine of equivalents because there are no substantial differences for each claim element, and the Accused Products perform substantially the same function, in substantially the same way, to achieve substantially the same result. To date, Siemens has not provided non-infringement contentions in this case. Plaintiff reserves the right to supplement its infringement contentions, including doctrine of equivalents contentions, in response to Siemens's non-infringement contentions.

Where a claim element is implemented in the same or substantially the same way for each product of an Accused Product family (*e.g.*, bDNA Products includes VERSANT® HIV-1 RNA 3.0 Assay (bDNA), VERSANT® HCV RNA 3.0 Assay (bDNA), and VERSANT® HBV bDNA 3.0 Assay (RUO)), Plaintiff provides an exemplary illustration or description setting forth specifically where the limitation is found in the Accused Products, without repeating the same illustration or description for each version of each Accused Product in the family.

Plaintiff provides these infringement contentions before fulsome discovery and before the Court's claim construction ruling. Moreover, depositions are ongoing, and Plaintiff reserves the right to supplement its contentions based on additional relevant information disclosed during depositions and through other means of discovery. And to the extent that Plaintiff receives relevant discovery from third parties, Plaintiff reserves the right to supplement its contentions accordingly. Plaintiff's infringement contentions are not an admission, adoption, or waiver of any particular claim construction; Plaintiff reserves all rights with respect to claim construction.

These infringement charts are based upon information reasonably and presently available to Plaintiff through publicly-available information and Siemens's production of documents to date. Plaintiff reserves the right, consistent with its obligations under the Federal Rules of Civil Procedure, the Local Rules, the Court's Scheduling Order, and the Default Standard for Discovery, including Discovery of Electronically Stored Information, to modify, amend, retract, and/or supplement the infringement charts made herein as additional evidence and information becomes available or as otherwise appropriate, including the issuance of the Court's claim construction ruling.

Plaintiff identifies the following asserted claims of the Patent-in-Suit and accused products, as further explained in Exhibits A and B.

Asserted Claims of the '197 Patent	Siemens – Accused Products
3, 5, 10, 11, 19, 20, 29, 30, 32, 33, 39-41, 43, 44, 46, 47, 52, 54, 57, 60, 66, 67, 72, 73, 79-82, 84-86, 91, 93, 96, 99, 105, 106, 114-119, 122-125, 128, 129, 136, 141, 143, 146, 149, 226, 227, 229, 231-233, 236	bDNA Products. <i>See Ex. A.</i>
1, 6, 8, 9, 12-17, 19, 38, 62-64, 68-70, 78, 101, 113, 116, 120, 129, 130, 230	VERSANT Products. <i>See Ex. B.</i>

DATED: September 30, 2014

/s/ Brian E. Farnan

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