

Paper No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BECTON, DICKINSON AND COMPANY,
Petitioner

v.

ENZO LIFE SCIENCES, INC.
Patent Owner.

Case IPR2017-00172

U.S. PATENT NO. 7,064,197

**PETITIONER'S MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c) AND 37 C.F.R. § 42.22 AND § 42.122(b)**

TABLE OF CONTENTS

	Page
I. STATEMENT OF THE PRECISE RELIEF REQUESTED	1
II. STATEMENT OF MATERIAL FACTS AND BACKGROUND	2
III. STATEMENT OF REASONS FOR RELIEF REQUESTED	4
A. Legal Standard.....	4
B. Petitioner’s Request for Joinder Is Timely.....	4
C. Joinder Is Appropriate.....	6
1. Petitioner Asserts Substantively Identical Grounds of Unpatentability.....	7
2. Petitioner Agrees to Consolidated Filings and Discovery.....	7
D. Petitioner’s IPR Raises No New Grounds of Unpatentability	8
E. Petitioner’s IPR Will Have No Impact on Trial Schedule.....	9
F. Briefing and Discovery Will Be Simplified.....	9
G. No Prejudice to Enzo if Proceedings Are Joined.....	10
IV. PROPOSED ORDER	11
V. CONCLUSION.....	12

TABLE OF AUTHORITIES

Page(s)

Federal Cases

Apple, Inc. v. VirnetX, Inc.,
IPR2016-00062, Paper 14 (P.T.A.B. Jan. 15, 2016)5, 6

Dell Inc. v. Network-1 Security Solutions, Inc.,
IPR2013-00385, Paper 17 (P.T.A.B. Jul. 29, 2013)5

Hologic, Inc. v. Enzo Life Sciences, Inc.,
IPR2016-00820 (P.T.A.B.)*passim*

Kyocera Corp. v. Softview LLC,
IPR2013-00004, Paper No. 15 (P.T.A.B. Apr. 24, 2013)1, 4

Microsoft Corp. v. Proxyconn, Inc.,
IPR2013-00109, Paper 15(P.T.A.B. Apr. 24, 2013)5

Mylan Pharms Inc. v. Novartis AG,
IPR2014-00550, Paper 38 (P.T.A.B. Apr. 10, 2015)10

Qualcomm, Inc. v. Bandspeed, Inc.,
IPR2015-01580, Paper 23 (P.T.A.B. Nov. 16, 2015).....5

Samsung Elecs. Co., Ltd. v. Raytheon Co.,
IPR2016-00962, Paper 12 (P.T.A.B. Aug. 24, 2016).....4, 5, 10

Federal Statutes

35 U.S.C. § 315(b)5

35 U.S.C. § 315(c)1, 4, 5

35 U.S.C. § 316(b)6

35 U.S.C. § 31711

Regulations

37 C.F.R. § 42.1(b)6

..

37 C.F.R. § 42.22 1, 4
37 C.F.R. § 42.101(b) 5
37 C.F.R. § 42.122(b) 1, 4, 5

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I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Becton, Dickinson and Company (“Petitioner,” “BD”) submits the present Motion for Joinder pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), which authorizes the filing of a “motion under § 42.22, no later than one month after the institution date of any *inter partes* review for which joinder is requested.” 37 C.F.R. § 42.122(b). Petitioner moves to join its concurrently filed petition for *inter partes* review (“Petitioner’s IPR”) of U.S. Patent 7,064,197 (“the ’197 patent”) with *Hologic Inc. v. Enzo Life Sciences, Inc.*, **IPR2016-00820** (“the Hologic 820 IPR”), which challenges the same claims of the same patent. The Board instituted the Hologic 820 IPR on October 4, 2016. *See* IPR2016-00820, Paper 8, at 1. Petitioner’s IPR and this motion for joinder are timely because they are filed within one month of the decision instituting the Hologic 820 IPR.

Petitioner’s IPR should be joined because it is identical to the Hologic 820 IPR in all substantive respects: Petitioner’s IPR asserts the same grounds on the same claims as those in the Hologic 820 IPR and includes identical exhibits to those in the Hologic 820 IPR. Discovery will not be impacted by joinder of Petitioner’s IPR because Petitioner relies upon the same expert declarant as the Hologic 820 IPR and is not advancing any new evidence. *See Kyocera Corp. v. Softview LLC*, IPR2013-00004, Paper No. 15, at 4 (P.T.A.B. Apr. 24, 2013). Petitioner is also willing to adopt the same schedule as set for the Hologic 820 IPR. *See*

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