

Case IPR2017-00172  
U.S. Patent No. 7,064,197

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BECTON, DICKINSON AND COMPANY,  
Petitioner

v.

ENZO LIFE SCIENCES, INC.,  
Patent Owner

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Case IPR2017-00172

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

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**ENZO'S RESPONSE TO PETITIONER'S MOTION FOR JOINDER**

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

Case IPR2017-00172

U.S. Patent No. 7,064,197

Patent Owner Enzo Life Sciences, Inc. (“Enzo”) hereby responds to the motion for joinder Becton, Dickinson and Company (“BD” or “Petitioner”) filed with its Petition in Case IPR2017-00172. Petitioner’s motion for joinder seeks joinder of this proceeding with the related matter Case IPR2016-00820. Enzo conditionally opposes Petitioner’s motion for joinder in the following two respects.

*First*, in Case IPR2016-00820, Enzo filed a request for rehearing of the Board’s decision to institute trial (Paper 11). Enzo requested that the Board reverse its decision to institute trial in its entirety. If Enzo’s request for rehearing is granted and institution is denied in Case IPR2016-00820, then Enzo would oppose Petitioner’s joinder motion for lack of an instituted proceeding to join. 35 U.S.C. § 315(c); 37 C.F.R. § 42.122(b).

*Second*, a motion for joinder can only be granted if the Board determines that the Petition in this proceeding warrants institution of an *inter partes* review. 35 U.S.C. § 315(c). Enzo’s preliminary response in this proceeding will include arguments Enzo did not include in its optional preliminary response in Case IPR2016-00820 in order to show that the Petition does not establish a reasonable likelihood of prevailing as to any claim, and thus does not warrant institution. 35 U.S.C. § 315(c); 35 U.S.C. § 314(a).

However, if the Board denies Enzo’s request for rehearing in Case IPR2016-00820, and if the Board determines after considering Enzo’s preliminary response

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that the Petition in this proceeding warrants institution, then Enzo would not oppose joining this proceeding with Case IPR2016-00820 under the conditions set forth in Petitioner's motion for joinder.

Dated: December 2, 2016

Respectfully submitted,

/kkm/

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on December 2, 2016, 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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