

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

**ENZO LIFE SCIENCES, INC.**

**Plaintiff,**

**v.**

**ILLUMINA, INC.**

**Defendant.**

**Civil Action No.**

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Enzo Life Sciences, Inc. ("Enzo"), for its Complaint against Defendant Illumina, Inc. ("Illumina") hereby alleges as follows:

**PARTIES**

1. Plaintiff Enzo is a New York corporation with its principal place of business at 10 Executive Boulevard, Farmingdale, NY 11735.
2. Defendant Illumina is a Delaware corporation with its principal place of business at 5200 Illumina Way, San Diego, CA 92122.

**NATURE OF THE ACTION**

3. This is a civil action for infringement of United States Patent No. 7,064,197 ("the '197 Patent") under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).
5. This Court has personal jurisdiction over Illumina because, among other things, Illumina has committed, aided, abetted, contributed to, and/or participated in the commission of patent infringement in this judicial district and elsewhere that led to foreseeable harm and injury

to Enzo. Moreover, Illumina is a Delaware corporation which, having availed itself of Delaware's corporate laws, is subject to personal jurisdiction in Delaware.

6. This Court also has personal jurisdiction over Illumina because, among other things, Illumina has established minimum contacts within the forum such that the exercise of jurisdiction over Illumina will not offend traditional notions of fair play and substantial justice. Moreover, Illumina has placed products that practice the claimed inventions of the '197 Patent into the stream of commerce with the reasonable expectation and/or knowledge that purchasers and users of such products were located within this District. Illumina has sold, advertised, marketed, and distributed products in this District that practice the claimed inventions of the '197 Patent.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

#### **The Patent-In-Suit**

8. United States Patent No. 7,064,197, entitled "System, Array And Non-Porous Solid Support Comprising Fixed Or Immobilized Nucleic Acids," was duly and legally issued by the United States Patent and Trademark Office on June 20, 2006. A copy of the '197 Patent is attached hereto as Exhibit A.

9. Enzo is the assignee of the '197 Patent and has the right to sue and recover damages for any current or past infringement of the '197 Patent.

#### **COUNT I**

##### **Infringement Of The '197 Patent**

10. Paragraphs 1 through 9 are incorporated by reference as if fully stated herein.

11. Illumina, either alone or in conjunction with others, has infringed and continues to infringe, one or more claims of the '197 Patent under 35 U.S.C. § 271, either literally and/or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States certain nucleic acid array products, including without limitation:

- a. products based upon BeadArray technology, for example, and without limitation, the Omni Family of Microarrays including without limitation,

HumanOmni5-Quad (all formats), HumanOmni2.5S (all formats),  
HumanOmni2.5-8 (all formats), HumanOmni1S (all formats),  
HumanOmniExpress BeadChip (all formats), HumanCytoSNP-12 (all  
formats), HumanOmni2.5S+ (all formats), HumanOmni5-Quad+ (all formats),  
HumanOmniExpress+ (all formats);

- b. Infinium BeadChips including without limitation, iSelect HD Custom BeadChip (all formats), iSelect Custom Add-On Content (all formats), BovineHD BeadChip (all formats), BovineSNP50 BeadChip (all formats), BovineLD BeadChip (all formats), CanineHD BeadChip (all formats), OvineSNP50 BeadChip (all formats), PorcineSNP60 BeadChip (all formats), MaizeSNP50 BeadChip (all formats), HumanExome BeadChip (all formats), HumanExome+ BeadChip (all formats), HumanOmniExpressExome BeadChip (all formats), HumanOmniExpressExome+ BeadChip (all formats), HumanOmni5Exome BeadChip (all formats), HumanOmni5Exome+ BeadChip (all formats), GoldenGate Universal-12 BeadChip (all formats), GoldenGate Universal-32 BeadChip (all formats), VeraCode GPR Universal Capture Beads (all formats) and VeraCode GPR Carboxyl Beads (all formats);  
and

- c. Illumina sequencing products including without limitation, products including flow cells, including without limitation, TruSeq Paired-End Cluster Kit v3-cBot-HS, TruSeq Single-Read Cluster Kit v3-cBot-HS, TruSeq Paired-End Cluster Kit v2-cBot-GA, TruSeq Single-Read Cluster Kit v2-cBot-GA, TruSeq Paired-End Cluster Kit v5-CS-GA, TruSeq Single-Read Cluster Kit v5-CS-GA, and MiSeq Reagent Kit.

12. Enzo has been and continues to be damaged by Illumina's infringement of the '197 Patent.

13. Illumina's conduct in infringing the '197 Patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, Enzo respectfully requests that this Court enter judgment against Illumina as follows:

- A. That Illumina has infringed the '197 Patent;
- B. That Enzo be awarded damages adequate to compensate it for Illumina's past infringement and any continuing or future infringement up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary to adequately compensate Enzo for Illumina's infringement, an accounting;
- C. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285;
- D. A preliminary and permanent injunction preventing Illumina, and those in active concert or participation with Illumina, from directly infringing the '197 Patent;
- E. A judgment requiring that, in the event a permanent injunction preventing future acts of infringement is not granted, Enzo be awarded a compulsory ongoing licensing fee; and
- F. That Enzo be awarded such other and further relief at law or equity as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff Enzo hereby demands a trial by jury on all claims and issues so triable.

Dated: April 6, 2012

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

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