

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LADATECH, LLC.,

Plaintiff,

v.

ILLUMINA, INC.,

Defendant.

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C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, LadaTech, LLC (“LadaTech”), for its complaint against defendant Illumina, Inc. (“Illumina”), alleges as follows:

THE PARTIES

1. Plaintiff LadaTech, LLC is a Delaware limited liability company with its principal place of business at 69 Prospect Avenue, Larchmont, NY 10538.
2. On information and belief, Defendant Illumina is a corporation incorporated under the laws of the state of Delaware with its principal place of business at 9885 Towne Centre Drive, San Diego, California 92121. On information and belief, Illumina offers for sale and/or sells its infringing products in this Judicial District, among other places.

JURISDICTION AND VENUE

3. This action for patent infringement arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
4. This Court has personal jurisdiction over Illumina because Illumina is incorporated in the State of Delaware and has purposely availed itself of the privilege of conducting activities within this State and District.

5. Venue is proper under 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

BACKGROUND AND THE PATENTS-IN-SUIT

6. On August 22, 2000, the United States Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 6,107,023 (the “’023 patent”), entitled “DNA Amplification and Subtraction Techniques.” LadaTech owns all rights to the ’023 patent, including the right to sue for infringement and to recover damages therefore. A true and correct copy of the ’023 patent is attached as Exhibit A.

7. On or about January 18, 2008, reexamination of the ’023 patent by the USPTO was requested by a third party on behalf of Illumina. The USPTO granted that request and commenced reexamination of the ’023 patent. On information and belief, on August 21, 2009, the USPTO issued a Notice of Intent to Issue a Reexamination Certificate, confirming the patentability of claims of the ’023 patent.

8. LadaTech has the full legal right to sue, enforce, and recover damages for all infringements of the ’023 patent.

CLAIM FOR RELIEF

(Infringement of United States Patent No. 6,107,023 by Illumina)

9. LadaTech incorporates and realleges the allegations of paragraphs 1 through 8 as if fully set forth herein.

10. Illumina has been and still is infringing the ’023 patent by making, using, offering for sale, and/or selling products and associated instrumentation for use in Illumina’s Genome Analyzer System, including Illumina’s Solexa Gene Sequencing System and Illumina’s Genomic DNA Sequencing Kits and related products and services.

11. Illumina also has been and is contributorily infringing and/or actively inducing others to infringe the '023 patent by supplying the aforementioned DNA sequencing products and associated instrumentation, products and services.

12. On information and belief, Illumina's infringement, contributory infringement, and/or active inducement of others' infringement of the '023 patent has taken place with full knowledge of the '023 patent and has been intentional, deliberate, and willful.

13. Illumina's infringement of the '023 patent has caused damage to LadaTech.

14. On information and belief, Illumina will continue to infringe, contributorily infringe, and/or actively induce others to infringe the '023 patent unless and until it is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

A. Enter a judgment that Illumina has infringed, contributorily infringed, and actively induced others to infringe the '023 patent;

B. Grant a permanent injunction restraining and enjoining Illumina, its officers, directors, agents, servants, employees, successors, assigns, parent, subsidiaries, affiliated or related companies, and attorneys from infringing, inducing others to infringe and contributing to the infringement of the '023 patent;

C. Award LadaTech damages in an amount sufficient to compensate for Illumina's infringement of the '023 patent, but not less than a reasonable royalty;

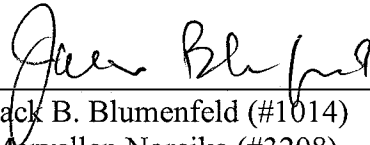
D. Award prejudgment interest to LadaTech pursuant to 35 U.S.C. § 284;

- E. Award increased damages, pursuant to 35 U.S.C. § 284, by reason of Illumina's willful infringement of the '023 patent;
- F. Declare this case exceptional under 35 U.S.C. § 285 and award LadaTech its reasonable attorneys' fees, expenses and costs incurred in this action; and
- G. Grant LadaTech such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

LadaTech hereby demands a jury trial on all issues appropriately triable by a jury.

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