

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LIFE TECHNOLOGIES CORPORATION,)
)
)
 Plaintiff,)
)
 v.) Civil Action No. 09-_____
)
 BIO-RAD LABORATORIES, INC.,) **JURY TRIAL DEMANDED**
)
 Defendant.)

COMPLAINT

Plaintiff LIFE TECHNOLOGIES CORPORATION (“LIFE TECHNOLOGIES” or “Plaintiff”) demands a trial by jury and for its Complaint alleges as follows:

NATURE OF THE ACTION

1. This is an action arising under the patent laws of the United States (35 U.S.C. § 271 et seq.) based upon infringement by Defendant BIO-RAD LABORATORIES, INC. (“BIO-RAD” or “Defendant”) of four patents owned by LIFE TECHNOLOGIES, U.S. Patent No. 6,703,484; U.S. Patent No 7,223,566; U.S. Patent No. 7,259,242 and U.S. Patent No. 7,265,206. Plaintiff seeks damages for Defendant’s infringement and a permanent injunction restraining Defendant from further infringement.

THE PARTIES

2. Plaintiff LIFE TECHNOLOGIES is a Delaware corporation that has a principal place of business at 5791 Van Allen Way, Carlsbad, CA 92008.

3. Plaintiff is informed and believes, and on that basis alleges, that Defendant BIO-RAD LABORATORIES, INC. is a Delaware corporation that has a principal place of business at 1000 Alfred Nobel Drive, Hercules, CA 94547.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant BIO-RAD.

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

BACKGROUND

8. LIFE TECHNOLOGIES is the owner of U.S. Patent Number 6,703,484 (the “’484 Patent”), entitled “Methods For Production Of Proteins.” The ’484 Patent duly and legally issued to Deb Chatterjee, Mary Longo, Elizabeth Flynn, and Robert Oberfelder on March 9, 2004 and is assigned to LIFE TECHNOLOGIES. A true and correct copy of the ’484 Patent is attached to this Complaint as Exhibit A.

9. LIFE TECHNOLOGIES is the owner of U.S. Patent Number 7,223,566 (the “’566 Patent”), entitled “Methods For Production Of Proteins.” The ’566 Patent duly and legally issued to Deb Chatterjee, Mary Longo, Elizabeth Flynn, and Robert Oberfelder on May 29, 2007 and is assigned to LIFE TECHNOLOGIES. A true and correct copy of the ’566 Patent is attached to this Complaint as Exhibit B.

10. LIFE TECHNOLOGIES is the owner of U.S. Patent Number 7,259,242 (the “’242 Patent”), entitled “Methods For Production Of Proteins.” The ’242 Patent duly and legally issued to Deb Chatterjee, Mary Longo, Elizabeth Flynn, and Robert Oberfelder on August 21,

2007 and is assigned to LIFE TECHNOLOGIES. A true and correct copy of the '242 Patent is attached to this Complaint as Exhibit C.

11. LIFE TECHNOLOGIES is the owner of U.S. Patent Number 7,265,206 (the "'206 Patent"), entitled "Methods Of Production Of Proteins." The '206 Patent duly and legally issued to Deb Chatterjee, Mary Longo, Elizabeth Flynn, and Robert Oberfelder on September 4, 2007 and is assigned to LIFE TECHNOLOGIES. A true and correct copy of the '206 Patent is attached to this Complaint as Exhibit D.

12. Plaintiff is informed and believes, and on that basis alleges, that Defendant uses, makes, manufactures, promotes, markets, advertises, distributes, imports, offers for sale, sells and/or causes to be offered or sold products including a protein standard (the "Infringing Products") causing infringement of one or more claims of the '484 Patent, '566 Patent, '242 Patent and '206 Patent directly or indirectly, in violation of 35 U.S.C. § 271.

**FIRST CLAIM FOR RELIEF
(INFRINGEMENT OF THE '484 PATENT)**

13. Plaintiff repeats and realleges the allegations set forth in preceding paragraphs 1 through 12, inclusive.

14. Plaintiff is informed and believes, and on that basis alleges, that Defendant uses, makes, manufactures, promotes, markets, advertises, distributes, imports, offers for sale, sells and/or causes to be offered or sold the Infringing Products, causing infringement of one or more claims of the '484 Patent, directly or indirectly, in violation of 35 U.S.C. § 271.

15. Defendant's Infringing Products include, but are not limited to, Precision Plus Protein Standards products marketed as Precision Plus Protein Dual Color Standards; Precision Plus Protein Kaleidoscope Standards; and Precision Plus Protein WesternC Standards (e.g. Part Numbers 161-0374, 161-0375, and 161-0376).

16. Plaintiff has been damaged and has suffered irreparable injury due to the Defendant's acts of infringement, and Plaintiff will continue to suffer irreparable injury unless Defendant's acts are enjoined.

17. Plaintiff has suffered and will continue to suffer substantial damage to its business by reason of Defendant's acts of infringement as alleged herein, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant's acts.

18. Plaintiff is informed and believes, and on that basis alleges, that Defendant has willfully infringed one or more claims of the '484 Patent, in disregard of Plaintiff's rights, therefore, Plaintiff is entitled to treble damages under 35 U.S.C. § 284.

19. Plaintiff is informed and believes, and on that basis alleges, that Defendant's acts make this an exceptional case within the meaning of 35 U.S.C. § 285, which entitles Plaintiff to an award of reasonable attorneys' fees.

**SECOND CLAIM FOR RELIEF
(INFRINGEMENT OF THE '566 PATENT)**

20. Plaintiff repeats and realleges the allegations set forth in preceding paragraphs 1 through 12, inclusive.

21. Plaintiff is informed and believes, and on that basis alleges, that Defendant uses, makes, manufactures, promotes, markets, advertises, distributes, imports, offers for sale, sells and/or causes to be offered or sold the Infringing Products causing infringement of one or more claims of the '566 Patent, directly or indirectly, in violation of 35 U.S.C. § 271.

22. Defendant's Infringing Products include, but are not limited to, Precision Plus Protein Standards products marketed as Precision Plus Protein All Blue Standards; Precision Plus Protein Dual Color Standards; Precision Plus Protein Kaleidoscope Standards and Precision Plus Protein WesternC Standards (e.g. Part Numbers 161-0373, 161-0374, 161-0375, and 161-0376).

23. Plaintiff has been damaged and has suffered irreparable injury due to the Defendant's acts of infringement, and Plaintiff will continue to suffer irreparable injury unless Defendant's acts are enjoined.

24. Plaintiff has suffered and will continue to suffer substantial damage to its business by reason of Defendant's acts of infringement as alleged herein, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant's acts.

25. Plaintiff is informed and believes, and on that basis alleges, that Defendant has willfully infringed one or more claims of the '566 Patent, in disregard of Plaintiff's rights, therefore, Plaintiff is entitled to treble damages under 35 U.S.C. § 284.

26. Plaintiff is informed and believes, and on that basis alleges, that Defendant's acts make this an exceptional case within the meaning of 35 U.S.C. § 285, which entitles Plaintiff to an award of reasonable attorneys' fees.

**THIRD CLAIM FOR RELIEF
(INFRINGEMENT OF THE '242 PATENT)**

27. Plaintiff repeats and realleges the allegations set forth in preceding paragraphs 1 through 12, inclusive.

28. Plaintiff is informed and believes, and on that basis alleges, that Defendant uses, makes, manufactures, promotes, markets, advertises, distributes, imports, offers for sale, sells and/or causes to be offered or sold the Infringing Products causing infringement of one or more claims of the '242 Patent, directly or indirectly, in violation of 35 U.S.C. § 271.

29. Defendant's Infringing Products include, but are not limited to, Precision Plus Protein Standards products marketed as Precision Plus Protein Unstained Standards; Precision Plus Protein Standard Plugs; Precision Plus Protein All Blue Standards; Precision Plus Protein Dual Color Standards; Precision Plus Protein Kaleidoscope Standards and Precision Plus Protein

WesternC Standards (e.g. Part Numbers 161-0363, 161-0378, 161-0373, 161-0374, 161-0375, and 161-0376).

30. Plaintiff has been damaged and has suffered irreparable injury due to the Defendant's acts of infringement, and Plaintiff will continue to suffer irreparable injury unless Defendant's acts are enjoined.

31. Plaintiff has suffered and will continue to suffer substantial damage to its business by reason of Defendant's acts of infringement as alleged herein, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant's acts.

32. Plaintiff is informed and believes, and on that basis alleges, that Defendant has willfully infringed one or more claims of the '242 Patent, in disregard of Plaintiff's rights, therefore, Plaintiff is entitled to treble damages under 35 U.S.C. § 284.

33. Plaintiff is informed and believes, and on that basis alleges, that Defendant's acts make this an exceptional case within the meaning of 35 U.S.C. § 285, which entitles Plaintiff to an award of reasonable attorneys' fees.

**FOURTH CLAIM FOR RELIEF
(INFRINGEMENT OF THE '206 PATENT)**

34. Plaintiff repeats and realleges the allegations set forth in preceding paragraphs 1 through 12, inclusive.

35. Plaintiff is informed and believes, and on that basis alleges, that Defendant uses, makes, manufactures, promotes, markets, advertises, distributes, imports, offers for sale, sells and/or causes to be offered or sold the Infringing Products causing infringement of one or more claims of the '206 Patent, directly or indirectly, in violation of 35 U.S.C. § 271.

36. Defendant's Infringing Products include, but are not limited to, Precision Plus Protein Standards products marketed as Precision Plus Protein All Blue Standards; Precision Plus

Protein Dual Color Standards; Precision Plus Protein Kaleidoscope Standards and Precision Plus Protein WesternC Standards (e.g. Part Numbers 161-0373, 161-0374, 161-0375, and 161-0376).

37. Plaintiff has been damaged and has suffered irreparable injury due to the Defendant's acts of infringement, and Plaintiff will continue to suffer irreparable injury unless Defendant's acts are enjoined.

38. Plaintiff has suffered and will continue to suffer substantial damage to its business by reason of Defendant's acts of infringement as alleged herein, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant's acts.

39. Plaintiff is informed and believes, and on that basis alleges, that Defendant has willfully infringed one or more claims of the '206 Patent, in disregard of Plaintiff's rights, therefore, Plaintiff is entitled to treble damages under 35 U.S.C. § 284.

40. Plaintiff is informed and believes, and on that basis alleges, that Defendant's acts make this an exceptional case within the meaning of 35 U.S.C. § 285, which entitles Plaintiff to an award of reasonable attorneys' fees.

PRAYER FOR RELIEF

a. That BIO-RAD be adjudged to have infringed the '484, '566, '242 and '206 Patents;

b. That BIO-RAD be adjudged to have willfully infringed the '484, '566, '242 and '206 Patents;

c. That BIO-RAD, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from infringing in any manner the '484, '566, '242 and '206 Patents;

- d. That BIO-RAD be ordered to deliver to Plaintiff, for destruction at Plaintiff's option, all products that infringe the '484, '566, '242 and '206 Patents;
- e. An accounting for damages by virtue of BIO-RAD's infringement of the '484, '566, '242 and '206 Patents;
- f. An award of damages pursuant to 35 U.S.C. § 284 to compensate LIFE TECHNOLOGIES for BIO-RAD's infringement of the '484, '566, '242 and '206 Patents, said damages to be trebled because of BIO-RAD's willful infringement;
- g. An assessment of pre-judgment and post-judgment interest and costs against BIO-RAD, together with an award of such interest and costs, in accordance with 35 U.S.C. § 284;
- h. That BIO-RAD be directed to pay LIFE TECHNOLOGIES attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. § 285; and
- i. That LIFE TECHNOLOGIES have such other and further relief as this Court may deem just and proper.

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