IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LIFE TECHNOLOGIES CORPORATION; APPLIED BIOSYSTEMS, LLC; INSTITUTE FOR PROTEIN RESEARCH; ALEXANDER CHETVERIN; HELENA CHETVERINA; AND WILLIAM HONE,	)	C.A. No. 09-706-RK
Plaintiffs,	)	JURY TRIAL DEMANDED
v.	)	
ILLUMINA, INC. and SOLEXA, INC.,	)	
Defendants.	)	

ILLUMINA AND SOLEXA'S ANSWER TO THE COUNTER-COUNTERCLAIMS OF LIFE TECHNOLOGIES CORPORATION AND APPLIED BIOSYSTEMS, LLC

In response to the Counter-Counterclaims asserted by Life Technologies Corporation and Applied Biosystems, LLC, Defendants, Illumina, Inc. ("Illumina") and Solexa, Inc. ("Solexa") (collectively, "Defendants") through their undersigned attorneys, answer in correspondingly numbered paragraphs as follows:

1. Life Technologies Corporation ("LIFE") and Applied Biosystems, LLC ("AB") counter-counterclaim against Illumina and Solexa for declaratory judgments of invalidity and non-infringement of the patents asserted in the Defendants' Answer and Counterclaims pursuant to 28 U.S.C. §§ 2201 and 2202.

ANSWER: Admitted that LIFE and AB's counter-counterclaims purport to state claims for declaratory judgments of invalidity and non-infringement of the patents asserted in the Defendants' Answer and Counterclaims. Denied that there is any basis for such claims or that the patents asserted in the Defendants' Answer and Counterclaims are invalid and/or not infringed.

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

ANSWER: Illumina and Solexa are without sufficient knowledge to admit or deny the allegations of this paragraph and on that basis they are denied.

3. Counter-Counterclaim Plaintiff AB is a wholly owned subsidiary of Counter-Counterclaim Plaintiff LIFE and is a Delaware limited liability company that has a principal place of business at 850 Lincoln Centre Drive, Foster City, CA 94404.

ANSWER: Illumina and Solexa are without sufficient knowledge to admit or deny the allegations of this paragraph and on that basis they are denied.

4. Upon information and belief, Counter-Counterclaim Defendant Illumina, Inc. is a Delaware corporation that has a principal place of business at 9885 Towne Centre Drive, San Diego, CA 92121.

ANSWER: Admitted.

5. Upon information and belief, Counter-Counterclaim Defendant Solexa, Inc. is a wholly owned subsidiary of Counter-Counterclaim Defendant Illumina, Inc., and is a Delaware corporation that has a principal place of business at 25861 Industrial Blvd., Hayward, CA 94545.

ANSWER: Admitted.

6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

ANSWER: Admitted.

7. This Court has personal jurisdiction over Counter-Counterclaim Defendants as Counter-Counterclaim Defendants are incorporated in the State of Delaware and have purposely availed themselves of the privilege of conducting activities within this State and District.

ANSWER: Admitted.

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

ANSWER: Admitted.

COUNT I

Declaratory Judgment of Patent Invalidity

9. The allegations of paragraphs 1-8 of these Counter-Counterclaims are incorporated in this Count as if fully restated herein.

ANSWER: Illumina and Solexa's above responses to paragraphs 1-8 are incorporated herein by reference as if fully restated herein.

10. There is an actual and justiciable controversy under the Declaratory Judgment Act within the meaning of 28 U.S.C. §§ 2201 and 2202 between LIFE and AB and the Counterclaim Plaintiffs/Counter-Counterclaim Defendants with respect to the validity of the '994, '505, '656, and '035 Patents.

ANSWER: Admitted.

11. The '994 and '505 Patents state that they were issued to John Bridgham, Kevin Corcoran, George Golda, Michael C. Pallas, and Sydney Brenner on December 14, 2004 and November 25, 2003 respectively.

ANSWER: Admitted.

12. The '656 Patent states that it was issued to Shankar Balasubramanian, David Klenerman, Colin Barnes, and Mark Allen Osborne on June 19, 2007.

ANSWER: Admitted.

13. The '035 Patent states that it was issued to Stephen C. Macevicz on October 6, 2009.

ANSWER: Admitted.

14. The Counterclaim Plaintiffs/Counter-Counterclaim Defendants, Illumina and Solexa, have alleged that Solexa owns the '994, '505, '656, and '035 Patents.

ANSWER: Admitted.

15. One or more claims of each of the '994, '505, '656, or '035 Patents are invalid for failing to comply with the conditions and requirements of patentability set forth in the United States Patent Laws, Title 35 U.S.C., including specifically §§ 101, 102, 103, and/or 112.

ANSWER: Denied.

COUNT II

Declaratory Judgment of Non-Infringement

16. The allegations of paragraphs 1-15 of these Counter-Counterclaims are incorporated in this Count as if fully restated herein.

ANSWER: Illumina and Solexa's above responses to paragraphs 1-15 are incorporated herein by reference as if fully restated herein.

17. There is an actual and justiciable controversy under the Declaratory Judgment Act within the meaning of 28 U.S.C. §§ 2201 and 2202 between LIFE and AB and the Counterclaim Plaintiffs/Counter-Counterclaim Defendants with respect to the infringement of the '994, '505, '656, and '035 Patents.

ANSWER: Admitted.

18. The Counterclaim Plaintiffs/Counter-Counterclaim Defendants have alleged that LIFE and AB infringe the '994, '505, '656, and '035 Patents by making, using, selling, and/or offering for sale products, services, methods and/or systems, including the "SOLiD" sequencing systems.

ANSWER: Admitted.

19. LIFE and AB have not infringed and are not infringing any valid, enforceable claim of the '994, '505, '656, and '035 Patents, either literally or by equivalence, or under any theory, including direct infringement, induced infringement, or contributory infringement.

ANSWER: Denied.

Demand for Jury Trial

Pursuant to Fed. R. Civ. P. 38(b), Illumina and Solexa hereby request a trial by jury of the counter-counterclaims on all issues so triable.

ASHBY & GEDDES

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