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,	)	
Plaintiffs,	)	C.A. No. 09-706 (RK)
v.	)	
ILLUMINA, INC. and SOLEXA, INC.,	)	
Defendants.	)	

DECLARATION OF STEVEN C. VACEK IN SUPPORT OF LIFE TECHNOLOGIES CORPORATION'S OPENING BRIEF IN SUPPORT OF ITS MOTION TO STAY DEFENDANTS' PATENT COUNTERCLAIMS PENDING REEXAMINATION OF DEFENDANTS' PATENTS-IN-SUIT BY THE U.S. PATENT AND TRADEMARK OFFICE

I, Steven C. Vacek, hereby declare:

1. I am a paralegal with the law firm of Weil, Gotshal & Manges LLP, counsel of record for plaintiffs Life Technologies Corp. ("Life), Applied Biosystems, LLC ("AB"), Institute for Protein Research, William Hone, Alexander Chetverin, and Helena Chetverina (collectively, "Plaintiffs") in the above captioned matter. I submit this declaration based on personal knowledge and following a reasonable investigation. If called upon as a witness, I could competently testify to the truth of each statement herein.

2. Exhibit 1 is a true and correct copy of U.S. Patent No. 5,616,478.

3. Exhibit 2 is a true and correct copy of U.S. Patent No. 5,958,698.

4. Exhibit 3 is a true and correct copy of U.S. Patent No. 6,001,568.

5. Exhibit 4 is a true and correct copy of U.S. Patent No. 6,831,994.

6. Exhibit 5 is a true and correct copy of U.S. Patent No. 6,654,505.

7. Exhibit 6 is a true and correct copy of U.S. Patent No. 7,232,656.

8. Exhibit 7 is a true and correct copy of U.S. Patent No. 7,598,035.

9. Exhibit 8 is a true and correct copy of a March 23, 2010 letter from Defendants notifying Life and AB of the asserted claims of each patent-in-suit.

10. Exhibit 9 is a true and correct copy of *Abbott Diabetes, Inc. v. Dexcom, Inc.*, No. 06-0051, 2007 WL 2892707 (D. Del. Sept. 30, 2007).

11. Exhibit 10 is a true and correct copy of *Alloc, Inc. v. Unilin Décor N.V.*, No. 03-0253, 2003 WL 21640372 (D. Del. July 11, 2003).

12. Exhibit 11 is a true and correct copy of *Cross Atlantic Capital Partners, Inc. v. Facebook, Inc*., No. 07-2768, 2008 WL 3889539 (E.D. Pa. Aug. 18, 2008).

13. Exhibit 12 is a true and correct copy of *Gioello Enterprises Ltd. v. Mattel, Inc.*, No. 99-0375, 2001 WL 125340 (D. Del. Jan. 29, 2001).

14. Exhibit 13 is a true and correct copy of *Heraeus Electro-Nite Co. v. Vesuvius USA Corp.*, No. 09-2417, 2010 WL 181375 (E.D. Pa. Jan. 11, 2010).

15. Exhibit 14 is a true and correct copy of *Pegasus Development Corp. v. DirecTV, Inc*., No. 00-1020, 2003 WL 21105073 (D. Del. May 14, 2003).

16. Exhibit 15 is a true and correct copy of *Wall Corp. v. BondDesk Group, LLC*, No. 07-0844, 2009 WL 528564 (D. Del. Feb. 24, 2009).

17. Exhibit 16 is a true and correct copy of *Cognex Corp. v. National Instruments Corp.*, No. 00-0442, 2001 WL 34368283 (D. Del. June 29, 2001).

18. Exhibit 17 is a true and correct copy of *Card Technologies Corp. v. DataCard Corp.*, No. 05-2546, 2007 WL 551615 (D. Minn. Feb. 21, 2007).

19. Exhibit 18 is a true and correct copy of *EchoStar Technologies. Corp. v. Tivo, Inc.*, No. 5:05 CV 81, 2006 WL 2501494 (E.D. Tex. July 14, 2006).

20. Exhibit 19 is a true and correct copy of excerpted pages showing Life's and AB's invalidity contentions from Plaintiffs' First Supplemental Responses and Objections to Illumina and Solexa's Interrogatory Numbers 2, 3, 8, and 10, *Life Technologies Corp. v. Illumina, Inc.*, No. 09-706 (D. Del. Feb. 26, 2010).

21. Exhibit 20 is a true and correct copy of U.S. Patent & Trademark Office, *Inter Partes Reexamination Filing Data – December 31, 2009* (2010), http://www.uspto.gov/patents/stats/ip_quarterly_report_dec_31_2009.pdf.

22. Exhibit 21 is a true and correct copy of excerpted pages from the December 31, 2009 Request for *Inter Partes* Reexamination of U.S. Patent No. 6,654,505.

23. Exhibit 22 is a true and correct copy of the March 24, 2010 Order Granting Request for *Inter Partes* Reexamination of U.S. Patent No. 6,654,505.

24. Exhibit 23 is a true and correct copy of the March 23, 2010 Office Action rejecting all patent claims of U.S. Patent No. 6,654,505.

25. Exhibit 24 is a true and correct copy of excerpted pages from the January 13, 2010 Request for *Inter Partes* Reexamination of U.S. Patent No. 7,598,035.

26. Exhibit 25 is a true and correct copy of March 24, 2010 Order Granting Request for *Inter Partes* Reexamination of U.S. Patent No. 7,598,035.

27. Exhibit 26 is a true and correct copy of the March 23, 2010 Office Action rejecting all patent claims of U.S. Patent No. 7,598,035.

28. Exhibit 27 is a true and correct copy of excerpted pages from the January 26, 2010 Request for *Inter Partes* Reexamination of U.S. Patent No. 7,232,656.

29. Exhibit 28 is a true and correct copy of excerpted pages from the January 29, 2010 Request for *Inter Partes* Reexamination of U.S. Patent No. 6,831,994.

30. Exhibit 29 is a true and correct copy of excerpted pages from the March 5, 2010 Replacement Request for *Inter Partes* Reexamination of U.S. Patent No. 7,232,656.

31. Exhibit 30 is a true and correct copy of excerpted pages from the February 19, 2010 Replacement Request for *Inter Partes* Reexamination of U.S. Patent No. 6,831,994.

32. Exhibit 31 is a true and correct copy of a letter dated April 12, 2010 from J. Wu to K. Flowers identifying Plaintiffs' list of proposed claim terms for construction.

33. Exhibit 32 is a true and correct copy of a letter dated April 12, 2010 from K. Flowers to N. Groombridge attaching Defendants' list of proposed claim terms for construction

34. Exhibit 33 is a true and correct copy of the Answer to Complaint, *Applera Corp.-Applied Biosystems Group v. Illumina, Inc.*, No. 07-2845 (N.D. Cal. Aug. 13, 2007).

35. Exhibit 34 is a true and correct copy of Solexa's identification of the SOLiD™ System as accused products in Solexa, Inc's First Set of Interrogatories, *Applera Corp.-Applied Biosystems Group v. Illumina, Inc.*, No. 07-2845 (N.D. Cal. Jan. 29, 2008).

36. Exhibit 35 is a true and correct copy of Illumina's and Solexa's identification of the SOLiD™ System as accused products in Illumina and Solexa's First Set of Interrogatories, *Life Technologies Corp. v. Illumina, Inc.*, No. 09-706 (D. Del. Nov. 19, 2009).

37. Exhibit 36 is a true and correct copy of Manual of Patent Examining Procedures § 2261.

38. I declare under penalty of perjury under the laws of the United States of America and the State of Texas that the foregoing is true and correct and that this declaration was executed on April 15, 2010 at Houston, Texas.

/s/ Steven C. Vacek
Steven C. Vacek

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2010 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to:

Steven J. Balick, Esquire
Lauren E. Maguire, Esquire
Andrew D. Cordo, Esquire
ASHBY & GEDDES

I further certify that I caused copies of the foregoing document to be served on April 16, 2010 upon the following in the manner indicated:

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