

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PARSE BIOSCIENCES, INC.,
Petitioner

v.

10X GENOMICS, INC.,
Patent Owner

Case IPR2023-00955
Patent 10,240,197

**PATENT OWNER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R.
§42.64**

Pursuant to 37 C.F.R. §42.64(b)(1), Patent Owner 10x Genomics, Inc. (“10x”) objects to the admissibility of the following exhibits filed on May 25, 2023, by Petitioner Parse Biosciences, Inc. with its Petition for *Inter Partes* Review. Pap. 1.

The Institution Decision issued on February 5, 2024. Pap. 9. 10x’s objections are timely under 37 C.F.R. §42.64(b)(1). 10x serves Petitioner with these objections to provide notice that 10x may move to exclude the exhibits identified below as inadmissible.

I. EX1004, EX1006-EX1007, EX1009, EX1011-EX1013, EX1019, EX1021, EX1023-EX1025, EX1027, EX1030-EX1039, EX1041-EX1052, EX1054, EX1056-EX1057, EX1060-EX1062, And Any Reference To Or Reliance Thereon

10x objects to the admissibility of EX1004, EX1006-EX1007, EX1009, EX1011-EX1013, EX1019, EX1021, EX1023-EX1025, EX1027, EX1030-EX1039, EX1041-EX1052, EX1054, EX1056-EX1057, and EX1060-EX1062 for at least the following reasons:

Petitioner has failed to authenticate EX1004, EX1006-EX1007, EX1009, EX1011-EX1013, EX1019, EX1021, EX1023-EX1025, EX1027, EX1030-EX1039, EX1041-EX1050, EX1054, EX1056-EX1057, and EX1060-EX1062 under **FRE 901** (authentication) and **FRE 602** (personal knowledge). Specifically,

Petitioner has failed to establish that each of these exhibits is what Petitioner claims it to be.

To the extent that Petitioner attempts to rely on any date that may appear in EX1004, EX1006-EX1007, EX1009, EX1011-EX1013, EX1019, EX1021, EX1023-EX1025, EX1027, EX1030-EX1039, EX1041-EX1050, EX1054, EX1056-EX1057, and EX1060-EX1062 to establish public accessibility as a printed publication, any such date is hearsay under **FRE 801** (hearsay) and is inadmissible under **FRE 802** (hearsay), and further, any such document in which any such date may appear has not been authenticated and is inadmissible under **FRE 901**.

Including because of these deficiencies, Petitioner has failed to establish that EX1004, EX1006-EX1007, EX1009, EX1011-EX1013, EX1019, EX1021, EX1023-EX1025, EX1027, EX1030-EX1039, EX1041-EX1050, EX1054, EX1056-EX1057, and EX1060-EX1062 are not relevant under **FRE 401** (test for relevance) and are inadmissible under **FRE 402** (relevance) and **FRE 403** (probative value outweighed by prejudice, confusing of issues, wasting of time). Petitioner has additionally failed to establish the prior art status of EX1031, EX1041, EX1050, and EX1054 each of which significantly post-dates the effective date of the challenged patent (U.S. Patent No. 10,240,197) even if the printed dates are to be believed, and thus they are not relevant for this additional reason under

FRE 401. Additionally, EX1051-EX1052 pertain to statements in another litigation involving different parties and are not relevant under **FRE 401** (test for relevance) and are inadmissible under **FRE 402** (relevance) and **FRE 403** (probative value outweighed by prejudice, confusing of issues, wasting of time). Further, Petitioner did not cite EX1006, EX1009, EX1011, EX1012, EX1020-EX1021, EX1025, EX1030-EX1033, EX1036-EX1038, EX1041-EX1044, EX1046-EX1050, EX1054, EX1056, EX1058, or EX1060-EX1062 in the Petition, and thus they are not relevant for this additional reason under **FRE 401**.

II. Declaration of Gregory Cooper, Ph.D. (EX1002)

10x objects to the Declaration of Gregory Cooper, Ph.D. (EX1002) for at least the following reasons:

Under **FRE 702** (expert testimony), Dr. Cooper's opinions are inadmissible because they are conclusory, do not sufficiently disclose underlying facts or data in support, and are unreliable. Additionally, under **FRE 401** (test for relevance), **FRE 402** (relevance), and **FRE 403** (probative value outweighed by prejudice, confusing of issues, wasting of time), his opinions are irrelevant, confusing, and of minimal probative value.

In addition, Dr. Cooper's declaration relies on EX1006, EX1009, EX1011, EX1012, EX1020-EX1021, EX1025, EX1030-EX1033, EX1036-EX1038, EX1041-EX1044, EX1046-EX1050, EX1054, EX1056, EX1058, and EX1060-

EX1062 for its analysis, and thus, his declaration is also inadmissible to the extent it relies on those exhibits for the reasons discussed above.

Further, Paragraphs 1-38, 45-51, 54-61, 63-71, 100-104, 106-107, 109-111, 113-120, 122-125, 127-136, 138-140, 142-147, 151-153, 155-159, 161-163, 165, 171-175, 177-184, 186-187, 189-194, 197-199, 201, 203-206, 208-209, 211-212, 219-221, 223-224, 226-227, 232-233, 236-239, 242, 244-245, 247-248, 251, 253, and 256-260 are not cited in the Petition, and thus they are not relevant for this additional reason under **FRE 401**.

III. Declaration of Sylvia D. Hall-Ellis, Ph.D. (EX1028)

10x objects to the Declaration of Silvia D. Hall-Ellis, Ph.D. (EX1028) for at least the following reasons:

Under **FRE 702** (expert testimony), Dr. Ellis's opinions are inadmissible because they are conclusory, do not sufficiently disclose underlying facts or data in support, and are unreliable.

Further, no Paragraphs of the Declaration are cited in the Petition, and thus they are not relevant for this additional reason under **FRE 401**.

Respectfully submitted,

Dated: February 15, 2024

By: /Megan Raymond/

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of PATENT OWNER'S OBJECTIONS TO EVIDENCE UNDER 37 C.F.R. §42.64 has been served in its entirety by causing the aforementioned document to be electronically mailed to the following attorneys of record for the Petitioner listed below:

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