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 August 2, 2024, by Petitioner Parse Biosciences, Inc. with its Petitioner's Reply to Patent Owner's Response. Pap. 25.

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. EX1069 and EX1071 And Any Reference To Or Reliance Thereon

10x maintains its objections set forth on the record during the depositions transcribed as EX1069 and EX1071. 10x also objects to EX1071 under **FRE 106** (incomplete). Furthermore, to the extent any submission of Petitioner purports to refer to or rely on portions of these transcripts (EX1069 and EX1071) that are objected to, 10x objects to such reference/reliance on the same basis.

II. EX1073-EX1076, EX1080, EX1082-EX1083, And Any Reference To Or Reliance Thereon

10x objects to the admissibility of EX1073-EX1076, EX1080, and EX1082-EX1084, for at least the following reasons:

Petitioner has failed to authenticate EX1073-EX1076, EX1080, and EX1082-EX1083 under **FRE 901** (authentication) and **FRE 602** (personal knowledge).

Specifically, Petitioner has failed to establish that each of these exhibits is what Petitioner clams it to be.

To the extent that Petitioner attempts to rely on any date that may appear in EX1073-EX1076, EX1080, and EX1082-EX1083 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 EX1073-EX1076, EX1080, and EX1082-EX1083 are 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 EX1074, EX1076, and EX1080, 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**. Further, Petitioner did not cite EX1074-EX1076, EX1080-EX1081, and EX1086-EX1087 in the Reply, and thus they are not relevant for this additional reason under **FRE 401.**

III. EX1084 And Any Reference To Or Reliance Thereon

EX1084 is an excerpt of Dr. Quackenbush's Rebuttal Report on Invalidity in a co-pending litigation, which Parse relies on for purposes unrelated to its invalidity grounds at issue in this proceeding. 10x objects to EX1084 as not relevant under **FRE 401** (test for relevance) and inadmissible under **FRE 402** (relevance) and **FRE 403** (probative value outweighed by prejudice, confusing of issues, wasting of time). 10x also objects to EX1084 under **FRE 106** (incomplete).

IV. Declaration of Gregory Cooper, Ph.D. (EX1070)

10x objects to the Declaration of Gregory Cooper, Ph.D. (EX1070) for at least the following reasons:

EX1070 is untimely, and exceeds the proper scope of Petitioner's reply under 37 C.F.R. § 42.23(b).

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 EX1041, EX1046-EX1047, EX1054, EX1073-EX1076, EX1080, and EX1082-EX1084 for its analysis, and

thus, his declaration is also inadmissible to the extent it relies on those exhibits for the reasons discussed above and in 10x's October 27, 2023 Objections to Evidence. Pap. 11.

Further, Paragraphs 1-7, 10-22, 71-74, 107-111, 130-138, 143, 148, 165-168, and 171-172 are not cited in the Reply, and thus they are not relevant for this additional reason under **FRE 401**.

V. Declaration of Sylvia D. Hall-Ellis, Ph.D. (EX1085)

10x objects to the Declaration of Silvia D. Hall-Ellis, Ph.D. (EX1085) for at least the following reasons:

EX1065 is untimely, and exceeds the proper scope of Petitioner's reply under 37 C.F.R. § 42.23(b) and should have been served, but was not, as supplemental evidence within ten business days of 10x's timely objection under 37 C.F.R. § 42.64(b)(2).

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, Paragraphs 1-43, 46-49, and 51 of the Declaration are not cited in the Reply, and thus they are not relevant for this additional reason under **FRE 401.**

Respectfully submitted,

Dated: August 9, 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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