

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

10X GENOMICS, INC. and PRESIDENT AND
FELLOWS OF HARVARD COLLEGE,

*Plaintiffs, Counterclaim
Defendant,*

v.

NANOSTRING TECHNOLOGIES, INC.,

*Defendant, Counterclaim
Plaintiff.*

C.A. No. 22-261-MFK

NANOSTRING TECHNOLOGIES, INC.,

*Plaintiff, Counterclaim
Defendant,*

v.

10X GENOMICS, INC.,

*Defendant, Counterclaim
Plaintiff.*

C.A. No. 22-1375-MFK

10X GENOMICS, INC. and PRESIDENT AND
FELLOWS OF HARVARD COLLEGE,

*Plaintiffs, Counterclaim
Defendant as to certain claims,*

v.

VIZGEN, INC.,

*Defendant, Counterclaim
Plaintiff.*

C.A. No. 22-595-MFK

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Court's Scheduling Orders (D.I. 34, 55, 105 in the 261 Case; D.I. 45, 137 in the 595 Case; D.I. 37 in the 1375 Case) the parties hereby provide this Joint Claim Construction Statement for the asserted claims in each case:

A. 261 Case

In the 261 Case (U.S. Patent Nos. 10,227,639 ("639 Patent"), 11,021,737 ("737 Patent"), 11,293,051 ("051 Patent"), 11,293,052 ("052 Patent"), 11,293,054 ("054 Patent"), and 11,542,554 ("554 Patent")), **Exhibit A** hereto identifies the disputed terms, each party's proposed construction for each term, and the intrinsic evidence supporting their proposed constructions. The parties reserve the right to cite additional intrinsic evidence in their briefing in response to their ongoing investigation and analysis and as the parties' positions are clarified during briefing. **Exhibit A** also identifies agreed terms and their agreed-to constructions.

B. 595 Case

In the 595 Case (U.S. Patent Nos. 11,021,737 ("737 Patent"), 11,293,051 ("051 Patent"), 11,293,052 ("052 Patent"), 11,299,767 ("767 Patent"), 11,549,136 ("136 Patent"), and 11,098,303 ("303 Patent")), **Exhibit B** hereto identifies the disputed terms each party's proposed construction for each term, and the intrinsic evidence supporting their proposed constructions. The parties reserve the right to cite additional intrinsic evidence in their briefing in response to their ongoing investigation and analysis and as the parties' positions are clarified during briefing.

C. 1375 Case

In the 1375 Case (U.S. Patent Nos. 11,473,142 ("142 Patent") and 11,377,689 ("689 Patent")), **Exhibit C** hereto identifies the disputed terms, each party's proposed construction for each term, and the intrinsic evidence supporting their proposed constructions. The parties reserve the right to cite additional intrinsic evidence in their briefing in response to their ongoing

investigation and analysis and as the parties' positions are clarified during briefing. **Exhibit C** also identifies agreed terms and their agreed-to constructions.

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Exhibit A (261 Case)

I. DISPUTED CLAIM TERMS PROPOSED BY NANOSTRING

Term	Claim Terms/Phrases (Terms Identified by NanoString)	NanoString's Proposed Construction and Supporting Intrinsic Evidence¹	Plaintiffs' Proposed Construction and Supporting Intrinsic Evidence
1	"identifier" 639 Patent, claim 1	"a unique expression to distinguish variations from one to another among a class of substances, items, or objects" <u>Intrinsic Evidence:</u>² <i>E.g.</i>, '639 Patent 69:46-53; 3:21-40; 5:12-21; 19:33-53; 20:14-24; 62:30-54; 63:4-10; 66:24-33 <i>E.g.</i>, '737 Patent 77:60-67; 4:60-5:11; 6:50-59; 28:54-29:7; 29:35-45; 71:1-21; 71:37-42; 74:46-52; 77:60-67 File History of U.S. Patent No. 10,227,639, including, <i>e.g.</i>, Claims (Jun. 18, 2014), Rejection (July 7, 2015), Rejection (Feb. 21, 2018), Claims (Feb. 21, 2018), Interview (June	No construction necessary — plain and ordinary meaning <u>Intrinsic Evidence:</u> 639 Patent at abstract, 1:29-4:48, 5:10-63, 6:13-7:31, 8:26-37, 8:51-9:43, 10:6-10:25, 10:27-12:9, 12:13-12:45, 12:64-15:55, 16:1-52, 18:26-35, 19:33-53, 20:12-22:11, 26:17-27:2, 27:52-29:31, 29:49-30:3, 30:9-12, 30:25-32, 31:3-24, 32:4-20, 37:38-44, 38:32-49, 38:62-39:25, 44:9-20, 44:27-65, 45:26-32, 51:50-52:3, 52:66-53:4, 54:15-35, 55:40-61, 59:65-61:12, 62:28-62, 63:1-10, 63:19-22, 63:28-59, 64:8-34, 64:37-41, 64:53-55, 64:64-65:5, 65:18-24, 65:37-66:21, 66:24-33, 67:9-17, 67:33-50, 67:65-68:6, 68:23-29, 69:46-53, 72:5-73:7, Figures 3, 4A-4B, 10, 11.

¹ In addition to exemplary intrinsic record support identified herein, NanoString intends to rely on the claim language of the patents-at-issue, including the language of the asserted and unasserted claims. For the patents at issue in Case No. 22-cv-00261 (the "261 Case"), NanoString may rely on any intrinsic evidence that other parties identify in the 261 Case or Case No. 22-cv-00595.

² The '639 and '054 Patents share an identical or substantially identical specification with each other and with unasserted family members for purposes of the parties' claim construction disputes. For simplicity, NanoString cites to the specification of the '639 Patent for the '639 and '054 Patents but reserves the right to rely on similar or corresponding material in the other patents-at-issue, including other patent family members, provisional(s), and European counterparts.

Term	Claim Terms/Phrases (Terms Identified by NanoString)	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹	Plaintiffs' Proposed Construction and Supporting Intrinsic Evidence
		15, 2018), Claims (July 12, 2018), Notice of Allowability (Oct. 16, 2018). File History of U.S. Patent No. 11,293,054, including, <i>e.g.</i>, Claims (Apr. 24, 2019), Rejection (Aug. 3, 2020), Claims (Apr. 28, 2021), Notice of Allowability (July 21, 2021). File History of U.S. Patent No. 11,021,737, including, <i>e.g.</i>, Claims (Sept. 10, 2020); Rejection (Oct. 21, 2020); Claims (Jan. 23, 2021), Notice of Allowability (Feb. 17, 2021). PCT/US2012/071398 61/579,265	The asserted and unasserted claims of the patents-in-suit.
2	“analyte” 639 Patent, claims 1 and 20 737 Patent, claims 1 and 24	“the molecule detected, identified or measured by binding of a detection reagent whose probe reagent(s) recognize (i.e., are specific binding partners) thereto” <u>Intrinsic Evidence:</u> <i>E.g.</i>, '737 Patent³ 60:10-14; 3:59-65; 4:60-5:11; 8:17-42; 9:9-12; 11:43-63; 19:57-66; 20:5-44;	“the molecule detected, identified or measured by binding of a detection reagent whose probe reagent(s) recognize it (i.e., are specific binding partners thereto)” <u>Intrinsic Evidence:</u>

³ The '737, '051, and '052 Patents share an identical or substantially identical specification with each other and with unasserted family members for purposes of the parties' claim construction disputes. For simplicity, NanoString cites to the specification of the '737 Patent for the '737, '051, and '052 Patents but reserves the right to rely on similar or corresponding material in the other patents-at-issue, including other patent family members, provisional(s), and European counterparts.

Term	Claim Terms/Phrases (Terms Identified by NanoString)	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹	Plaintiffs' Proposed Construction and Supporting Intrinsic Evidence
	051 Patent, claims 1 and 96 052 Patent, claim 1 054 Patent, claim 1	28:54-67; 30:61-66; 45:48-54; 60:15-44; 61:22-31; 65:7-18; Figures 12-14 <i>E.g.</i>, '639 Patent 51:50-54; 2:31-57; 4:4-12; 9:57-10:10; 10:51-11:22; 20:59-21:13; 21:41-67; 31:10-24; 51:55-52:17; 55:14-20; Figures 10-12 File History of U.S. Patent No. 10,227,639, including, <i>e.g.</i>, Claims (Jun. 18, 2014), Rejection (July 7, 2015), Rejection (Feb. 21, 2018), Claims (Feb. 21, 2018), Interview (June 15, 2018), Claims (July 12, 2018), Notice of Allowability (Oct. 16, 2018). File History of U.S. Patent No. 11,293,054, including, <i>e.g.</i>, Claims (Apr. 24, 2019), Rejection (Aug. 3, 2020), Claims (Apr. 28, 2021), Notice of Allowability (July 21, 2021). File History of U.S. Patent No. 11,021,737, including, <i>e.g.</i>, Claims (Sept. 10, 2020); Rejection (Oct. 21, 2020); Claims (Jan. 23, 2021), Notice of Allowability (Feb. 17, 2021). File History of U.S. Patent No. 11,293,051, including, <i>e.g.</i>, Claims (Apr. 23, 2021), Rejection (July 2, 2021), Claims (Nov. 22, 2021), Notice of Allowability (Jan. 3, 2022).	639 Patent at abstract, 1:29-5:11, 5:44-54, 6:46-7:3, 10:6-10, 10:27-12:9, 12:46-63, 20:59-21:12, 21:15-23:10, 23:55-24:12, 25:60-27:62, 31:3-9, 37:38-44, 51:50-52:17, 52:62-53:4, 54:14-35, 62:28-29, 62:28-63:59, 64:8-9-64:27,72:40-73:7. 051 Patent at 1:48-60, 3:61-6:52, 7:18-29, 8:19-43, 11:59-63, 19:48-21:31, 22:1-18, 30:17-37, 30:40-32:34, 33:12-36, 35:15-37:16, 40:26-32, 45:25-31, 59:41-60:8, 60:53-62, 62:5-26, 70:16-71:37, 71:53-72:2, 79:63-80:30. The asserted and unasserted claims of the patents-in-suit.

Term	Claim Terms/Phrases (Terms Identified by NanoString)	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹	Plaintiffs' Proposed Construction and Supporting Intrinsic Evidence
		File History of U.S. Patent No. 11,293,052, including, <i>e.g.</i>, Claims (Apr. 23, 2021), Claims (June 29, 2021); Rejection (July 16, 2021), Claims (Nov. 22, 2021), Notice of Allowability (Dec. 20, 2021). PCT/US2012/071398 61/579,265	
3	“decoding reagent” 051 Patent, claims 1 and 96	“any reagent that can yield a signal signature” <u>Intrinsic Evidence:</u> <i>E.g.</i>, '639 Patent 11:23-32; 13:16-20; 14:3-5; 14:34-38 <i>E.g.</i>, '737 Patent 20:44-54; 22:38-42; 23:25-27 File History of U.S. Patent No. 11,293,051, including, <i>e.g.</i>, Claims (Apr. 23, 2021), Rejection (July 2, 2021), Claims (Nov. 22, 2021), Notice of Allowability (Jan. 3, 2022). PCT/US2012/071398 61/579,265	No construction necessary — plain and ordinary meaning <u>Intrinsic Evidence:</u> 051 Patent at 1:48-2:27, 4:7-6:22, 7:47-53, 8:50-58, 10:11-11:29, 11:59-12:7, 20:44-58, 22:19-26:18, 26:61-27:9, 27:33-41, 27:61-65, 28:23-41, 29:12-36, 37:56-67, 38:1-14, 39:4-25, 41:1-45:32, 58:8-20, 68:1-12, 68:12-24, 68:62, 71:14-38, 79:30-82:55. The asserted and unasserted claims of the patents-in-suit.
4	“detection reagent” 639 Patent, claim 1	“a molecule comprising a probe conjugated to a nucleic acid label comprising one or more pre-determined subsequences such that each nucleic	No construction necessary — Plain and ordinary meaning <u>Intrinsic Evidence:</u>

Term	Claim Terms/Phrases (Terms Identified by NanoString)	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹	Plaintiffs' Proposed Construction and Supporting Intrinsic Evidence
	737 Patent, claims 1 and 24 051 Patent, claims 1, 26, 48, 80, 85, 89, 90, 96 052 Patent, claims 1 and 26 054 Patent, claim 1	acid label identifies said probe and its corresponding analyte” <u>Intrinsic Evidence:</u> <i>E.g.</i>, '737 Patent 4:31-42; 4:60-65; 5:12-15; 6:50-59; 6:60-61; 7:15-34; 7:51-61; 8:17-20; 8:58-9:3; 10:12-62; 11:4-20; 11:30-12:7; 19:49-20:30; 22:29-55; 23:25-40; 24:26-51; 25:42-64; 28:54-61; 29:33-45; 29:52-56; 30:34-37; 30:61-66; 37:15-19; 37:34-51; 38:15-27; 38:44-39:4; 39:48-56; 39:65-40:5; 40:32-39; 41:11-20; 47:33-39; 53:14-25; 71:1-21; 74:46-54; 75:58-61; 77:60-67; 80:47-83:10; Figs. 3-7; Figs. 11-15 <i>E.g.</i>, '639 Patent 2:19-30; 2:58-3:5; 3:6-4:5; 4:9-20; 4:30-5:21; 5:44-5:63; 6:35-7:3; 8:26-53; 8:57-9:8; 10:6-22; 10:27-11:22; 11:33-48; 13:7-52; 14:3-33; 15:4-30; 16:21-30; 17:36-57; 19:33-53; 20:12-21:67; 27:15-62; 27:64-67; 28:15-33; 28:63-29:8; 29:25-52; 30:25-32; 30:40-47; 31:3-9; 32:4-13; 39:6-12; 44:54-65; 59:6-27; 62:30-68:64; 72:35-75:12; Figures 1-5, 9-13 File History of U.S. Patent No. 10,227,639, including, <i>e.g.</i>, Claims (Jun. 18, 2014), Rejection (July 7, 2015), Rejection (Feb. 21,	639 Patent at abstract, 1:29-4:48, 5:10-63, 6:13-7:31, 8:26-37, 8:51-9:43, 10:6-10:25, 10:27-12:9, 12:13-12:45, 12:64-15:55, 16:1-52, 18:26-35, 19:33-53, 20:12-22:11, 26:17-27:2, 27:52-29:31, 29:49-30:3, 30:9-12, 30:25-32, 31:3-24, 32:4-20, 37:38-44, 38:32-49, 38:62-39:25, 44:9-20, 44:27-65, 45:26-32, 51:50-52:3, 52:66-53:4, 54:15-35, 55:40-61, 59:65-61:12, 62:28-62, 63:1-10, 63:19-22, 63:28-59, 64:8-34, 64:37-41, 64:53-55, 64:64-65:5, 65:18-24, 65:37-66:21, 66:24-33, 67:9-17, 67:33-50, 67:65-68:6, 68:23-29, 69:46-53, 72:5-73:7, Figures 3, 4A-4B, 10, 11. 051 Patent at 1:48-2:27, 4:7-6:22, 6:51-7:37, 7:54-9:4, 10:11-23, 10:37-11:29, 11:59-12:7, 14:36-61, 19:48-21:31, 21:35-67, 22:19-25:9, 25:23-26:10, 27:51-60, 28:58-29:11, 29:37-31:35, 35:38-36:23, 37:6-38:53, 39:4-25, 39:31-34, 39:47-54, 40:26-46, 41:1-16, 45:25-31, 46:20-37, 46:50-47:13, 51:66-52:10, 52:17-43, 52:44-55, 53:16-22, 59:41-61, 60:57-62, 62:6-26, 63:31-52, 67:51-67, 68:1-67, 70:16-45, 70:51-59, 70:66-71:2, 71:8-38, 71:53-72:8, 72:11-15, 72:27-29, 72:38-46, 72:58-62, 73:7-58, 73:61-74:2, 74:44-50, 74:65-75:15, 75:29-37, 75:54-59, 77:5-12, 79:31-80:30, Figures 5, 6A-6B, 12, 13.

Term	Claim Terms/Phrases (Terms Identified by NanoString)	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹	Plaintiffs' Proposed Construction and Supporting Intrinsic Evidence
		2018), Claims (Feb. 21, 2018), Interview (June 15, 2018), Claims (July 12, 2018), Notice of Allowability (Oct. 16, 2018). File History of U.S. Patent No. 11,293,054, including, <i>e.g.</i>, Claims (Apr. 24, 2019), Rejection (Aug. 3, 2020), Claims (Apr. 28, 2021), Notice of Allowability (July 21, 2021). File History of U.S. Patent No. 11,021,737, including, <i>e.g.</i>, Claims (Sept. 10, 2020); Rejection (Oct. 21, 2020); Claims (Jan. 23, 2021), Notice of Allowability (Feb. 17, 2021). File History of U.S. Patent No. 11,293,051, including, <i>e.g.</i>, Claims (Apr. 23, 2021), Rejection (July 2, 2021), Claims (Nov. 22, 2021), Notice of Allowability (Jan. 3, 2022). File History of U.S. Patent No. 11,293,052, including, <i>e.g.</i>, Claims (Apr. 23, 2021), Claims (June 29, 2021); Rejection (July 16, 2021), Claims (Nov. 22, 2021), Notice of Allowability (Dec. 20, 2021). PCT/US2012/071398 61/579,265	The asserted and unasserted claims of the patents-in-suit.
5	Whether the steps of the method claims	Claim steps must be performed in the order written	Not all of the claimed method steps must be performed in the order written

Term	Claim Terms/Phrases (Terms Identified by NanoString)	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹	Plaintiffs' Proposed Construction and Supporting Intrinsic Evidence
	must be performed in the order written	<u>Intrinsic Evidence:</u> <i>E.g.</i>, '737 Patent 4:31-45; 4:60-5:22; 5:23-34; 9:45-47; 9:66-12:7; 21:3-24:5; 26:45-56; 27:62-29:7; 71:1-77:10; 80:49-83:10; Figures 1-15 <i>E.g.</i>, '639 Patent 2:38-3:5; 3:21-51; 3:52-4:3; 8:5-7; 8:26-10:22; 11:49-14:50; 17:24-35; 18:26-19:53; 62:30-68:64; 72:35-75:13; Figures 1-13 File History of U.S. Patent No. 10,227,639, including, <i>e.g.</i>, Claims (Jun. 18, 2014), Rejection (July 7, 2015), Rejection (Feb. 21, 2018), Claims (Feb. 21, 2018), Interview (June 15, 2018), Claims (July 12, 2018), Notice of Allowability (Oct. 16, 2018). File History of U.S. Patent No. 11,293,054, including, <i>e.g.</i>, Claims (Apr. 24, 2019), Rejection (Aug. 3, 2020), especially pages 3-5, Claims (Apr. 28, 2021), Notice of Allowability (July 21, 2021). File History of U.S. Patent No. 11,021,737, including, <i>e.g.</i>, Claims (Sept. 10, 2020); Rejection (Oct. 21, 2020); Claims (Jan. 23, 2021), Notice of Allowability (Feb. 17, 2021).	<u>Intrinsic Evidence:</u> 051 Patent at 1:48-60, 4:34-48, 4:49-60, 4:59-62, 4:63-5:14, 5:26-44, 6:4-22, 7:47-53, 9:31-62, 10:11-11:29, 11:59-12:7, 20:5-53, 23:8-55, 24:26-26:10, 27:33-41, 27:51-60, 27:61-65, 27:66-28:7, 28:8-22, 28:23-41, 28:42-57, 28:58-29:11, 29:12-36, 37:19-38:14, 41:1-45:32, 71:52-64, 79:30-82:55; Figures 3, 4, 7, 8, 9, 10, 14. The asserted and unasserted claims of the patents-in-suit.

Term	Claim Terms/Phrases (Terms Identified by NanoString)	NanoString's Proposed Construction and Supporting Intrinsic Evidence¹	Plaintiffs' Proposed Construction and Supporting Intrinsic Evidence
		File History of U.S. Patent No. 11,293,051, including, <i>e.g.</i>, Claims (Apr. 23, 2021), Rejection (July 2, 2021), Claims (Nov. 22, 2021), Notice of Allowability (Jan. 3, 2022). File History of U.S. Patent No. 11,293,052, including, <i>e.g.</i>, Claims (Apr. 23, 2021), Claims (June 29, 2021); Rejection (July 16, 2021), Claims (Nov. 22, 2021), Notice of Allowability (Dec. 20, 2021). PCT/US2012/071398 61/579,265	

II. AGREED CLAIM TERMS FOR PURPOSES OF THE 261 CASE

For the purposes of this litigation (the 261 case) and in the interest of reducing the number of disputed constructions that will need to be resolved by the Court, the parties to the 261 case have agreed to the following claim constructions:

Term	Claim Terms/Phrases (Terms Identified by NanoString)	Agreed Construction
A	"temporal order of signal signatures"	"a sequence of signal signatures determined in a temporally-sequential manner, i.e., the sequence of signal signatures is progressed through by a number of active operations performed in a temporally-sequential manner"

Term	Claim Terms/Phrases (Terms Identified by NanoString)	Agreed Construction
	737 Patent, claims 1 and 24 051 Patent, claims 1, 26, and 96 052 Patent, claims 1 and 26	
B	“decoder probe” 639 Patent, claim 1 051 Patent, claims 26, 66, 90, 96 052 Patent, claims 26 and 65 054 Patent, claims 1 and 17	“an oligonucleotide with a sequence complementary to a pre-determined sequence of the nucleic acid label”
C	“signal signature” 639 Patent, claim 1 737 Patent, claims 1, 8, and 24	“a change in, or occurrence of, a response or indicator that is detectable either by observation or instrumentally”

Term	Claim Terms/Phrases (Terms Identified by NanoString)	Agreed Construction
	051 Patent, claims 1, 66, and 9626 052 Patent, claims 1 and 26 054 Patent, claims 1, 17, and 18	

Exhibit B (595 Case)

I. DISPUTED CLAIM TERMS PROPOSED BY VIZGEN

Term	Claim Terms/Phrases (Terms Identified by Vizgen)	Vizgen’s Proposed Construction and Supporting Intrinsic Evidence¹	10x’s and Harvard’s Proposed Construction and Supporting Intrinsic Evidence
1	“detection reagent” 737 Patent claims 1, 23, 24, 48 051 Patent, claims 1, 26, 80, 85, 89, 90, 96 052 Patent, claim 26 136 Patent, claims 1, 24, 27, and 28	“a molecule comprising a probe conjugated to a nucleic acid label comprising one or more pre-determined subsequences such that each nucleic acid label identifies said probe and its corresponding analyte” <u>Intrinsic Evidence:</u>² <i>E.g.</i>, ’737 Patent 4:31-42; 4:60-65; 5:12-15; 6:50-59; 6:60-61; 7:15-34; 7:51-61; 8:17-20; 8:58-9:3; 10:12-62; 11:4-20; 11:30-12:7; 19:49-20:30; 22:29-55; 23:25-40; 24:26-51; 25:42-64; 28:54-61; 29:33-45; 29:52-56; 30:34-37; 30:61-66; 37:15-19; 37:34-51; 38:15-27; 38:44-39:4; 39:48-56; 39:65-40:5; 40:32-39; 41:11-20; 47:33-39; 53:14-25; 71:1-21; 74:46-54; 75:58-	No construction necessary — Plain and ordinary meaning <u>Intrinsic Evidence:</u> 051 Patent at 1:48-2:27, 4:7-6:22, 6:51-7:37, 7:54-9:4, 10:11-23, 10:37-11:29, 11:59-12:7, 14:36-61, 19:48-21:31, 21:35-67, 22:19-25:9, 25:23-26:10, 27:51-60, 28:58-29:11, 29:37-31:35, 35:38-36:23, 37:6-38:53, 39:4-25, 39:31-34, 39:47-54, 40:26-46, 41:1-16, 45:25-31, 46:20-37, 46:50-47:13, 51:66-52:10, 52:17-43, 52:44-55, 53:16-22, 59:41-61, 60:57-62, 62:6-26, 63:31-52, 67:51-67, 68:1-67, 70:16-45, 70:51-59, 70:66-71:2, 71:8-38, 71:53-72:8, 72:11-15, 72:27-29, 72:38-46, 72:58-62, 73:7-58, 73:61-74:2, 74:44-

¹ In addition to exemplary intrinsic record support identified herein, Vizgen intends to rely on the claim language of the patents-at-issue, including the language of the asserted and unasserted claims. For the patents at issue in Case No. 22-cv-00595 (the “595 Case”), Vizgen may rely on any intrinsic evidence that other parties identify in the 595 Case or Case No. 22-cv-00261.

² The ’737, ’051, ’052, and ’136 Patents share an identical or substantially identical specification with each other and with unasserted family members and share substantially similar disclosures in the specifications of the ’265 Provisional and the European counterparts identified herein (*e.g.*, EP2794928) for purposes of the parties’ claim construction disputes. For simplicity, Vizgen cites to the specification of the ’737 Patent but reserves the right to rely on similar or corresponding material in the other patents-at-issue, including other patent family members, provisional(s), and European counterparts.

Term	Claim Terms/Phrases (Terms Identified by Vizgen)	Vizgen's Proposed Construction and Supporting Intrinsic Evidence ¹	10x's and Harvard's Proposed Construction and Supporting Intrinsic Evidence
		61; 77:60-67; 80:47-83:10; Figs. 3-7; Figs. 11-15 File History of U.S. Patent No. 10,227,639, including, e.g., Claims (Jun. 18, 2014), Rejection (July 7, 2015), Rejection (Feb. 21, 2018), Claims (Feb. 21, 2018), Interview (June 15, 2018), Claims (July 12, 2018), Notice of Allowability (Oct. 16, 2018). File History of U.S. Patent No. 11,293,054, including, e.g., Claims (Apr. 24, 2019), Rejection (Aug. 3, 2020), Claims (Apr. 28, 2021), Notice of Allowability (July 21, 2021). File History of U.S. Patent No. 11,021,737, including, e.g., Claims (Sept. 10, 2020); Rejection (Oct. 21, 2020); Claims (Jan. 23, 2021), Notice of Allowability (Feb. 17, 2021). File History of U.S. Patent No. 11,293,051, including, e.g., Claims (Apr. 23, 2021), Rejection (July 2, 2021), Claims (Nov. 22, 2021), Notice of Allowability (Jan. 3, 2022). File History of U.S. Patent No. 11,293,052, including, e.g., Claims (Apr. 23, 2021), Claims (June 29, 2021); Rejection (July 16, 2021),	50, 74:65-75:15, 75:29-37, 75:54-59, 77:5-12, 79:31-80:30, Figures 5, 6A-6B, 12, 13. The asserted and unasserted claims of the patents-in-suit.

Term	Claim Terms/Phrases (Terms Identified by Vizgen)	Vizgen's Proposed Construction and Supporting Intrinsic Evidence ¹	10x's and Harvard's Proposed Construction and Supporting Intrinsic Evidence
		Claims (Nov. 22, 2021), Notice of Allowability (Dec. 20, 2021). File History of U.S. Patent No. 11,549,136, including, e.g., Claims (July 2, 2021), Rejection (Jan. 28, 2022), Notice of Allowability (July 19, 2022). File History of EP2794928, including, e.g., Claims (Apr. 3, 2016), Claims (Jul. 26, 2018). File History of EP3425063, including, e.g., Claims (Aug. 12, 2021). PCT/US2012/071398 61/579,265 EP2794928	
2	“using 3D fluorescence imaging to identify said cellular nucleic acid molecules” 767 Patent claim 1	“using 3D fluorescence imaging of amplicons to identify said cellular nucleic acid molecules” <u>Intrinsic Evidence:</u> <i>E.g.</i>, '767 Patent 1:26-31; 2:7-49; 3:11-20; 6:9-57; 8:32-9:9; 10:60-11:3; Examples I-III, VII-X, Fig. 2, Fig. 4A, Fig. 4B, Fig. 4C, Fig. 5A. File History of U.S. Patent No. 11,299,767, including, e.g., Rejection (Aug. 16, 2021).	No construction necessary — Plain and ordinary meaning <u>Intrinsic Evidence:</u> 767 Patent at Abstract, 1:35-47, 1:51-56, 1:56-60, 1:62-66, 1:66-2:6, 2:7-19, 2:23-34, 2:50-63, 2:50-57, 3:4-15, 3:21-24, 3:25-31, 3:56-59, 4:34-37, 4:37-39, 4:39-47, 4:48-5:3, 5:4-6, 5:45-60, 6:9-32, 7:6-31, 8:14-15, 10:4-48, 10:49-59, 12:17-21, Figure 1.

Term	Claim Terms/Phrases (Terms Identified by Vizgen)	Vizgen's Proposed Construction and Supporting Intrinsic Evidence ¹	10x's and Harvard's Proposed Construction and Supporting Intrinsic Evidence
		File History of U.S. Patent No. 10,138,509 including, <i>e.g.</i>, Claims (Sept. 10, 2015), Rejection (Dec. 4, 2017), Remarks (Jan. 26, 2018); Claims (Jan. 26, 2018), Notice of Allowability (Mar. 18, 2018). File History of U.S. Patent No. 11,078,520, including, <i>e.g.</i>, Notice of Allowability (Mar. 24, 2021). File History of EP2971184, including, <i>e.g.</i>, Claims (Feb. 8, 2018). File History of EP3371329, including, <i>e.g.</i>, Claims (Dec. 10, 2019). File History of EP3578666, including, <i>e.g.</i>, Claims (Oct. 29, 2021). PCT/US2014/018580 61/777,383	767 Patent File History at June 30, 2021 Claims (10XH-00004271-04272); August 16, 2021 Non-Final Rejection (10XH-00004301-04313); November 16, 2021 Claims (10XH-00004425-04427); December 7, 2021 Notice of Allowance (10XH-00004449-04457) The asserted and unasserted claims of the patents-in-suit and the claims of U.S. Patent Nos. 10,138,509; 11,078,520; 10,494,662

II. DISPUTED CLAIM TERMS PROPOSED BY 10X

Term	Claim Terms/Phrases (Terms Identified by 10x)	Vizgen's Proposed Construction and Supporting Intrinsic Evidence ³	10x's Proposed Construction and Supporting Intrinsic Evidence
3	“matching the codewords with valid codewords in a codebook by comparing the codewords to the valid codewords in the codebook” 303 Patent, claim 1	Plain and ordinary meaning <u>Intrinsic Evidence:</u> Claims 1, 8-12 '303 Patent at Abstract, 2:4-13, 2:25-36, 3:9-42, 3:50-59, 4:3-62, 5:14-17, 7:48-13:8, 19:62-21:48, 21:63-22:17, 29:64-30:35, 33:62-34:5, Examples 1-10, and all Figures cited and/or described therein. File History of U.S. Patent No. 11,098,303, including Claims and Remarks (Jan. 22, 2021); Claims and Remarks (Mar. 26, 2021); Notice of Allowability (May 26, 2021). PCT/US2015/042556 62/031,062 62/142,653 62/050,636	“determining that each bit of a produced codeword is the same as each bit in the corresponding position of a valid codeword in the codebook” <u>Intrinsic Evidence:</u> 303 Patent at 4:23-47, 10:41-56, 11:20-23, 12:19-44, 20:4-17, 21:17-29, 21:63-22:10, 35:32-48, 36:40-62, 42:37-46, 44:37-56, 46:15-36, 47:21-48:3, 49:48-64, 64:45-51, 65:36-68:63, and all figures and examples cited therein, Claims 9, 10, 12, Figs. 3A-3B, 5E, 6A-6E, 11, 12A-12C, 16A-16E, 19B. 303 Patent File History, including: October 18, 2019 Examiner's rejection (VIZ00002229-240), April 17, 2020 Responses to Examiner's Rejection and Amendments (VIZ00002518-527), October 22, 2020 Examiner's Rejection (VIZ00002528-539), January 22, 2021 Responses to Examiner's Rejection and Amendments (VIZ00002546-2562), May 26, 2021 Examiner's amendment and notice of allowance (VIZ00002851-863).

³ Vizgen reserves the right to rely on the citations to intrinsic evidence cited by 10x. Vizgen further intends to rely on the claim language itself of the '303 Patent.

Term	Claim Terms/Phrases (Terms Identified by 10x)	Vizgen's Proposed Construction and Supporting Intrinsic Evidence ³	10x's Proposed Construction and Supporting Intrinsic Evidence
			PCT/US2015/042556 62/031,062 62/142,653 62/050,636 10x reserves the right to rely on the citations to intrinsic evidence cited by Vizgen. 10x further intends to rely on the claim language itself of the 303 Patent.
4	“if one of the codewords is not matched with one of the valid codewords in the codebook, applying an error detection or correction system, matching the one of the codewords with another of the valid codewords in the codebook, or discarding the one of the codewords” 303 Patent, claim 1	Plain and ordinary meaning <u>Intrinsic Evidence:</u> Claims 1, 8-12 '303 Patent at Abstract, 2:4-13, 2:25-36, 3:9-42, 3:50-59, 4:3-62, 5:14-17, 7:48-13:8, 19:62-21:48, 21:63-22:17, 29:64-30:35, 33:62-34:5, Examples 1-10, and all Figures cited and/or described therein. File History of U.S. Patent No. 11,098,303, including Claims and Remarks (Jan. 22, 2021); Claims and Remarks (Mar. 26, 2021); Notice of Allowability (May 26, 2021). PCT/US2015/042556 62/031,062 62/142,653	The embodying system must be capable of performing the following conditional steps: “if each bit in a produced codeword does not correspond with the bit in the same location of a valid codeword, applying an error detection or correction system [as construed] and either assigning the corrected codeword to another valid codeword or discarding the codeword.” <u>Intrinsic Evidence:</u> 303 Patent at 11:12-28, 12:45-55, 20:6-13, 20:33-35, 20:48-21:34, 38:4-17, 42:37-46, 43:65-44:3, 44:37-59, 46:15-36, 47:21-48:3, 56:39-57, 57:3-8, 65:36-54; 65:36-68:63, and all figures and examples cited therein 303 Patent File History, including:

Term	Claim Terms/Phrases (Terms Identified by 10x)	Vizgen's Proposed Construction and Supporting Intrinsic Evidence ³	10x's Proposed Construction and Supporting Intrinsic Evidence
		62/050,636	7/29/2019 Amendment after non-final rejection (VIZ00002019-2030), 4/17/2020 Amendment after final rejection (VIZ00002518-527), 1/22/2021 Amendment after non-final rejection (VIZ00002546-562), 5/26/2021 Examiner's amendment and notice of allowance (VIZ00002851-863). PCT/US2015/042556 62/031,062 62/142,653 62/050,636 10x reserves the right to rely on the citations to intrinsic evidence cited by Vizgen. 10x further intends to rely on the claim language itself of the 303 Patent.
5	“an error detection or correction system” 303 Patent, claim 1	This claim limitation is not governed by 35 U.S.C. ¶ 112(f). No construction necessary. <u>Intrinsic Evidence:</u> Claims 1, 8-12 '303 Patent at Abstract, 2:4-13, 2:25-36, 3:9-42, 3:50-59, 4:3-62, 5:14-17, 7:48-13:8, 19:62-21:48, 21:63-22:17, 29:64-30:35, 33:62-34:5, Examples 1-10, and all Figures cited and/or described therein.	This limitation is governed by 35 U.S.C. ¶ 112 (f). Function: detecting or correcting unmatched bits in a produced codeword Structure: “A Hamming system, a Golay code, or an extended Hamming system (or a SECDED system, i.e., single error correction, double error detection)” as disclosed in Col. 11:12-28, Col. 20:51-21:34, Col. 38:4-17, Col. 65:36-68:63.

Term	Claim Terms/Phrases (Terms Identified by 10x)	Vizgen's Proposed Construction and Supporting Intrinsic Evidence ³	10x's Proposed Construction and Supporting Intrinsic Evidence
		File History of U.S. Patent No. 11,098,303, including Claims and Remarks (Jan. 22, 2021); Claims and Remarks (Mar. 26, 2021); Notice of Allowability (May 26, 2021).; PCT/US2015/042556 62/031,062 62/142,653 62/050,636	<u>Intrinsic Evidence:</u> 303 Patent at 11:12-28, 12:45-55, 20:6-24, 20:51-21:34, 30:13-20, 34:63-35:18, 36:54-62, 38:4-17, 42:37-46, 44:37-59, 46:15-36, 47:21-48:3, 53:54-54:65, 65:36-68:63, and all figures and examples cited therein, Figs. 12A-12C. PCT/US2015/042556 62/031,062 62/142,653 62/050,636 303 Patent File History 10x reserves the right to rely on the citations to intrinsic evidence cited by Vizgen. 10x further intends to rely on the claim language itself of the 303 Patent.

Exhibit C (1375 Case)

I. DISPUTED CLAIM TERMS PROPOSED BY 10X

Term	Claim Terms/Phrases (Terms Identified by 10x)	10x's Proposed Construction and Supporting Intrinsic Evidence	NanoString's Proposed Construction and Supporting Intrinsic Evidence¹
1	“under conditions that release” 689 Patent, claim 16; 142 Patent, claim 1	“providing a force to a location of the tissue sample sufficient to release” <u>Intrinsic Evidence:</u> 689 Patent at Figures 1-3; Figures 11-13; Figure 16; Figure 18-20; Figure 26; 1:44-67; 2:1-11; 2:26-54; 3:24-47; 3:48-4:9; 4:34-5:37; 5:44-6:8; 6:9-43; 6:44-7:9; 7:10-44; 8:18-52; 8:53-9:23; 9:24-58; 9:59-10:29; 11:1-25; 11:53-12:4; 12:5-28; 12:29-57; 12:58-13:8; 14:60-67; 15:14-25, 15:28-49; 16:8-29; 17:1-9; 17:10-32; 18:41-51; 19:54-62; 19:63-20:10; 20:11-20; 21:8-15; 22:16-24; 22:25-35; 23:11-43; 24:13-21; 24:22-32; 27:24-28; 28:17-21; 29:14-22; 29:23-33; 31:54-62; 31:63-32:5; 32:27-35; 34:14-22; 34:23-33; 34:53-61; 35:41-49; 35:50-60; 36:18-26; 36:62-37:11; 39:11-31; 49:3-52; 76:61-77:4; 77:17-27; 77:36-43; 78:14-27; and 80:14-24.	Plain and ordinary meaning <u>Intrinsic Evidence:</u> 689 Patent at 4:21-27, 17:1-10, 19:54-62, 20:21-29, 22:16-24, 24:13-21, 29:14-22, 31:54-62, 34:14-22, 35:41-49, 37:65-38:28, 39:11-32, 40:39-45, 43:50-44:8, 44:41-47, 48:12-33, 49:1-52.

¹ The patents-at-issue share an identical or substantially identical specification. In the interest of uniformity, NanoString cites to the specification of the 689 Patent, but reserve the right to rely on the corresponding material in the 142 Patent. NanoString further intends to rely on the claim language itself of the patents-at-issue, including the language of the asserted and unasserted claims.

Term	Claim Terms/Phrases (Terms Identified by 10x)	10x's Proposed Construction and Supporting Intrinsic Evidence	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹
		689 Patent File History (Application No. 17/476,707) at September 16, 2021 Claims (NANO10XH00000124-00126); January 19, 2022 Non-Final Rejection (NANO10XH00000222-00235); April 19, 2022 Amendments (NANO10XH00000265-00272); May 3, 2022 Claims, Amendments, and Attorney Remarks (NANO10XH00000470-00477); May 4, 2022 Examiner Interview Summary (NANO10XH00000484-00485); May 24, 2022 Notice of Allowance (NANO10XH00000493-00503) U.S. Application No. 16/272,487 File History at February 11, 2019 Claims (10X1375-00021869-21874); January 25, 2021 Non-Final Rejection (10X1375-00023229-23244); July 26, 2021 Amended Claims and Attorney Remarks (10X1375-00023285-23296); September 28, 2021 Final Rejection (10X1375-00024148-24168) U.S. Application No. U.S. Application No. 16/272,487 File History at September 16, 2021 Claims; January 6, 2022 Non-Final Rejection; February 22, 2022 Examiner Interview; March 16, 2022 Examiner Interview; March 16, 2022 Examiner Amendments.	

Term	Claim Terms/Phrases (Terms Identified by 10x)	10x's Proposed Construction and Supporting Intrinsic Evidence	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹
		The asserted and unasserted claims of the patents-in-suit.	
2	“[first/second] location of the tissue sample” 689 Patent, claims 16, 24, 27; 142 Patent, claims 1, 9	“[first/second] region of interest of the tissue sample” <u>Intrinsic Evidence:</u> ‘689 Patent at Abstract; Figure 20; Figures 21A-D; Figures 22A-D; Figures 23-25; Figure 28-29; 1:28-32; 1:39-43; 15:31-45; 16:8-14; 16:15-29; 17:1-21; 17:26-32; 18:21-40; 19:54-20:6; 20:11-20; 20:65-21:7; 22:16-35; 24:13-32; 29:14-33; 31:54-32:5; 32:6-19; 34:14-33; 35:41-60; 36:62-37:11; 40:21-38; 42:10-20; 45:51-54; 47:10-24; 48:34-60; 49:3-42; 49:22-42; 75:52-77:4; 77:5-28; 77:30-50; 78:8-40; 80:10-24; 689 Patent File History (Application No. 17/476,707) at September 16, 2021 Claims (NANO10XH00000124-00126); January 19, 2022 Non-Final Rejection (NANO10XH00000222-00235); April 19, 2022 Amendments (NANO10XH00000265-00272); May 3, 2022 Claims, Amendments, and Attorney Remarks (NANO10XH00000470-00477); May 4, 2022 Examiner Interview Summary (NANO10XH00000484-00485); May	Plain and ordinary meaning <u>Intrinsic Evidence:</u> 689 Patent at 1:44-13:8, 13:29-34, 14:8-14, 16:14-29, 17:1-21, 17:26-32, 18:31-40, 19:54-20:6, 20:11-20, 20:65-21:7, 22:25-35, 24:13-32, 24:48-25:28, 31:54-32:21, 34:14-34, 41:21-36, 42:10-20, 46:51-54, 49:1-52, 53:19-39, 56:23-42, 68:36-51, 70:11-25, 78:5-40.

Term	Claim Terms/Phrases (Terms Identified by 10x)	10x's Proposed Construction and Supporting Intrinsic Evidence	NanoString's Proposed Construction and Supporting Intrinsic Evidence ¹
		24, 2022 Notice of Allowance (NANO10XH00000493-00503) U.S. Application No. 16/272,487 File History at February 11, 2019 Claims (10X1375-00021869-21874); January 25, 2021 Non-Final Rejection (10X1375-00023229-23244); July 26, 2021 Amended Claims and Attorney Remarks (10X1375-00023285-23296); September 28, 2021 Final Rejection (10X1375-00024148-24168) U.S. Application No. U.S. Application No. 16/272,487 File History at September 16, 2021 Claims; January 6, 2022 Non-Final Rejection; February 22, 2022 Examiner Interview; March 16, 2022 Examiner Interview; March 16, 2022 Examiner Amendment The asserted and unasserted claims of the patents-in-suit.	

II. AGREED CLAIM TERMS FOR PURPOSES OF THE 1375 CASE

For the purposes of this litigation (the 1375 case) and in the interest of reducing the number of disputed constructions that will need to be resolved by the Court, the parties to the 1375 case have agreed to the following claim constructions:

Term	Claim Terms/Phrases (Terms Identified by 10x)	Agreed Construction
A	“spatially detecting” 689 Patent, claim 16; 142 Patent, claim 1	“identifying the presence of a specific target analyte within a specific region of interest in a sample”