

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NATERA, INC.,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 20-125 (GBW)
v.	)	(CONSOLIDATED)
	)	
ARCHERDX, INC., ARCHERDX, LLC and	)	
INVITAE CORP.,	)	
	)	
Defendants.	)	

**NATERA INC.’S CONCISE OF FACTS IN OPPOSITION TO DEFENDANTS’ MOTION  
FOR SUMMARY JUDGMENT THAT DEFENDANTS PCM, STRATAFIDE, AND  
LIQUIDPLEX PRODUCTS DO NOT INFRINGE ANY OF THE ASSERTED PATENTS  
(D.I. 430 at 11-13; D.I. 449 at 4-5)**

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October 25, 2022

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In accordance with the Court's October 3, 2022 Order (D.I. 461), Plaintiff Natera Inc. ("Natera") respectfully submits this separate concise statement of material facts as to which there exists a genuine issue warranting denial of Defendants' Motion for Summary Judgment that Defendants' PCM, Stratafide, and LiquidPlex Products Do Not Infringe Any of the Asserted Patents.

1. The Court construed the term "target loci" to mean "selected segments of nucleic acid of interest of an individual. D.I. 243 (*Markman* Opinion), 5.

2. The Court's construction expressly included scenarios where multiple DNA sources are present and the circulating tumor DNA is selected as the target:

It may be that a single biological sample may contain material from multiple individuals. It may be possible, nonetheless, to practice the claims on such a sample, provided that each time it is practiced all of the target loci are selected from a single individual (i.e., the portion of the sample that is derived from that same single individual). For example, an individual looking to test for Y chromosome linked disorders could obtain a sample of mixed DNA from a mother and a fetus, target DNA of the fetus, and *practice the claim with respect to the target loci of that fetus despite the presence of multiple DNA sources in the sample (Tr. at 27-28) The Court's construction is not intended to exclude such possibilities.*

D.I. 243 (*Markman* Opinion), 6, fn. 3 (emphasis added).

3. Defendants admitted: "just because you have a mixed sample that includes DNA from multiple individuals doesn't mean you can't target DNA from just one individual. You surely can. I just gave you an example of what you could do." D.I. 442 (Natera's Opposition to Defendants' Motion for Summary Judgment), 10 (citing D.I. 185 (Claim Construction Hearing Tr.), 27:20-24).

4. The specification expressly contemplate that the source of DNA target loci can be from more than one individual. D.I. 17-1, Ex. 1 ('814 Patent), 105:28-30 ("whether the sample is [*sic*] pure genomic sample from a single individual or mixture of individuals").

5. U.S. Patent No. 8,515,679 titled “System and Method for Cleaning Noisy Genetic Data and Determining Chromosome Copy Number,” is not an asserted patent in this action. D.I. 452-12 (’679 Patent), Ex. 3.

6. U.S. Patent No. 10,526,658 titled “Methods for Simultaneous Amplification of Target Loci,” is not at issue in this action, and is not a family member of the Asserted Patents. D.I. 434-2, Ex. B (Spellman Tr.), 46:13-14.

7. The term “individual” is not recited in the asserted claims of the ’220, ’814, and ’172 Patents. D.I. 17-1, Ex. 1 (’814 Patent), Claim 1; D.I. 17-1, Ex. 2 (’172 Patent), Claim 1; D.I. 391-2, Ex. 5 (’220 Patent), Claim 1.

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October 25, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that on October 25, 2022, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on October 25, 2022, upon the following in the manner indicated:

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