

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

QIAGEN HAMBURG GMBH and QIAGEN,
LLC,

Plaintiffs,

v.

BIO-RAD LABORATORIES, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs QIAGEN Hamburg GmbH and QIAGEN, LLC, by and through their undersigned counsel, file this Complaint for Declaratory Judgment against Bio-Rad Laboratories, Inc., and allege as follows:

NATURE OF THE ACTION

1. This is an action for declaratory judgment of non-infringement arising under the patent laws of the United States, Title 35 of the United States Code. Plaintiffs QIAGEN Hamburg GmbH and QIAGEN, LLC (collectively “QIAGEN”) request this relief because Defendant Bio-Rad Laboratories, Inc. (“Bio-Rad”) has threatened QIAGEN¹ and claimed that QIAGEN infringes United States Patent Nos. RE41780 (the “’780 patent”) (Exhibit A), 10,782,226 (the “’226 patent”) (Exhibit B), 10,921,237 (the “’237 patent”) (Exhibit C), 11,073,468 (the “’468 patent”) (Exhibit

¹ The threat was to QIAGEN Hamburg GmbH; however, it concerned products sold by QIAGEN, LLC, therefore QIAGEN, LLC joins this lawsuit as a co-plaintiff.

D), 11,231,355 (the “’355 patent”) (Exhibit E) and 11,237,096 (the “’096 patent) (Exhibit F) (collectively, the “Bio-Rad patents”).

2. QIAGEN provides sampling and assay products for a variety of molecular biology applications.

3. One of these products is QIAGEN’s QIAcuity[®] Digital Polymerase Chain Reaction (“PCR”) system. PCR is a biochemical method of amplifying a particular strand of target DNA and tagging it with a fluorescent marker. Amplification of the target DNA and its subsequent tagging then allows the detection and measurement of very small initial concentrations of DNA. PCR has medical and research applications. The QIAcuity system in particular delivers precise, comprehensive, and rapid results. Among other uses, it has recently found a use in 48 out of 50 states in testing municipal wastewater for signs of COVID-19. Testing municipal wastewater assists public health officials in tracking, tracing, and treating COVID-19 infections.

4. Bio-Rad is a company that also manufactures a variety of biochemical and biomedical research and diagnostic tools.

5. On May 27, 2021, Bio-Rad sent QIAGEN a letter accusing QIAGEN’s QIAcuity system of practicing “at least” the ’780, ’226, and ’237 patents. *See* May 27, 2021 Letter, Exhibit G at 1. The letter stated that Bio-Rad believed that “Qiagen’s QIAcuity[®] Digital PCR System utilizes Bio-Rad’s patented technology without authorization.” *Id.* at 3.

6. On February 10, 2022, Bio-Rad sent QIAGEN another letter escalating the dispute. In that letter, Bio-Rad reasserted the patents identified in the first letter, and further accused QIAGEN of practicing the newly issued ’468, ’355, and ’096 patents.

7. QIAGEN has denied that it infringes any claims of the Bio-Rad patents.

8. Since Bio-Rad sent its initial letter to QIAGEN, the parties have attempted to negotiate and settle the issues outside of court. However, it has become clear that the parties cannot resolve this issue without court assistance, and QIAGEN believes further discussions would be futile in their current form. Due to the imminent threat of a lawsuit being brought against it, QIAGEN files suit in Delaware, the state in which Bio-Rad is incorporated.

THE PARTIES

9. QIAGEN Hamburg GmbH is a Gesellschaft mit beschränkter Haftung (“GmbH”) (a company with limited liability) headquartered in Monheim am Rhein, North Rhine-Westphalia in the Federal Republic of Germany.

10. QIAGEN, LLC is a California limited liability company with an office at 1700 Seaport Blvd Ste 300, Redwood City, CA 94063.

11. On information and belief, Defendant Bio-Rad is a Delaware corporation with its principal place of business at 800 Alfred Nobel Dr., Hercules, California. Upon information and belief, Bio-Rad has consented to and agreed that the courts of Delaware have jurisdiction to resolve disputes between itself and other parties.

JURISDICTION AND VENUE

12. This action arises under the Declaratory Judgment Act, 28 U.S.C. § 2201, and under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

13. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1332, 1338, 2201, and 2202 because this Court has exclusive jurisdiction over declaratory judgment claims arising under the patent laws of the United States pursuant to 28 U.S.C. §§ 1332, 1338, 2201, and 2202.

14. Bio-Rad is subject to general jurisdiction in Delaware because it is a Delaware Corporation. It is subject to specific personal jurisdiction in this judicial district based upon its purposeful, systematic, and continuous contacts with Delaware.

15. This Court can provide the declaratory relief brought in this Declaratory Judgment Complaint because an actual case and controversy exists between the parties within the scope of this Court's jurisdiction pursuant to 28 U.S.C. § 2201. An actual case and controversy exists at least because QIAGEN does not infringe and has not infringed any of the claims of the Bio-Rad patents, and Bio-Rad has accused QIAGEN of infringing the Bio-Rad patents. Bio-Rad's actions have created a real, live, immediate, and justiciable case or controversy between Bio-Rad and QIAGEN. Bio-Rad has taken the affirmative act to enforce its purported patent rights by explicitly alleging that QIAGEN is infringing its patents. QIAGEN alleges, upon information and belief, that Bio-Rad is attempting to assert or license the Bio-Rad patents against others as well.

16. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400, including because venue in declaratory judgment actions for non-infringement of patents is determined under the general venue statute, 28 U.S.C. § 1391.

17. Under 28 U.S.C. § 1391(b)(1), venue is proper in any judicial district where a defendant resides. Because Bio-Rad is incorporated in this District, Bio-Rad resides in the District of Delaware and venue is proper under 28 U.S.C. § 1391.

THE ASSERTED PATENTS

18. On September 28, 2010, the United States Patent and Trademark Office (the "Patent Office") issued the '780 patent, entitled "Chemical Amplification Based on Fluid Partitioning in an Immiscible Liquid" to Brian L. Anderson, Bill W. Colston, and Christopher J. Elkin. A true and correct copy of the '780 patent is attached as Exhibit A. On information and belief, Bio-Rad purports to be the owner by assignment or the exclusive licensee of the '780 patent.

19. The '780 patent is a reissue of United States Patent No. 7,041,481, which issued on May 9, 2006 from U.S. Patent Application No. 10/389,130 filed on March 14, 2003.

20. On September 22, 2020, the Patent Office issued the '226 patent, entitled "Cell Capture System and Method of Use" to Kalyan Handique. A true and correct copy of the '226 patent is attached as Exhibit B. On information and belief, Bio-Rad purports to own by assignment the '226 patent.

21. The '226 patent issued from U.S. Patent Application No. 16/929,427 filed on July 15, 2020.

22. On February 16, 2021, the Patent Office issued the '237 patent, entitled "Cell Capture System and Method of Use" to Kalyan Handique. A true and correct copy of the '237 patent is attached as Exhibit C. On information and belief, Bio-Rad purports to own by assignment the '237 patent.

23. The '237 patent issued from U.S. Patent Application No. 17/005,611 filed on August 28, 2020.

24. On July 27, 2021, the Patent Office issued the '468 patent, entitled "Cell Capture System and Method of Use" to Kalyan Handique. A true and correct copy of the '468 patent is attached as Exhibit D. On information and belief, Bio-Rad purports to own by assignment the '468 patent.

25. The '468 patent issued from U.S. Patent Application No. 17/005,159 filed on August 27, 2020.

26. On January 25, 2022, the Patent Office issued the '355 patent, entitled "Cell Capture System and Method of Use" to Kalyan Handique. A true and correct copy of the '355

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