IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THE UNIVERSITY OF PITTSBURGH – OF THE COMMONWEALTH SYSTEM OF HIGHER EDUCATION,	)	Civil Action No. 2:15-cv-_____
Plaintiff,	)	Jury Trial Demanded
v.	)	
PERKINELMER, INC.	)	
Defendant.	)	

COMPLAINT

The University of Pittsburgh – of the Commonwealth System of Higher Education d/b/a The University of Pittsburgh (the "University"), through its undersigned counsel, files the instant Complaint against PerkinElmer, Inc. ("PerkinElmer"), and states as follows:

The University and Its Patents

1. The University is a state related institution of higher education with its principal place of business at 4200 Fifth Avenue, Pittsburgh, Pennsylvania 15260.

2. The University is the owner by assignment of U.S. Patent Nos. 6,008,010 ("the '010 patent"); 7,867,752; 8,241,892; 8,445,261; and 8,859,263 (collectively "the Subject Patents") (attached hereto as Exhibits A-E).

3. The lead inventor named on the Subject Patents is Joel S. Greenberger, Professor and Chair of the Department of Radiation Oncology at the University of Pittsburgh School of Medicine, and Co-Director of the Lung and Esophageal Cancer Program at the University of Pittsburgh Cancer Institute.

4. The Subject Patents are generally related to an integrated system for incubating cells in a dynamically controlled environment and automatically determining the state of the incubated cells.

5. Representative claim 1 of the '010 patent reads as follows:

> An apparatus for incubating and determining the state of individual cells within a plurality of cells comprising:
>
> a mechanism for incubating cells, said incubating mechanism having a housing having a biochamber, said biochamber being a dynamically controlled closed environment in which the cells are grown, which is maintained in a desired condition and in which each individual cell can be examined while the cells remain in place in a location in which they are grown relative to the biochamber and while the environment is dynamically controlled and maintained in the desired condition;
>
> and a mechanism for automatically determining the state of said individual cell over time while said cell remains in place in the location in which it is grown relative to the biochamber and while the environment is dynamically controlled and maintained in the desired condition, said determining mechanism in communication with the incubating mechanism.

PerkinElmer and the Accused Systems

6. Upon information and belief, it is alleged that PerkinElmer is a Massachusetts corporation with a principal place of business at 940 Winter Street, Waltham, Massachusetts 02451.

7. Upon information and belief, it is alleged that in approximately 2002, PerkinElmer began manufacturing, using, selling, or offering for sale within the United States, including within this Judicial District, or importing into the United States, products that embody the patented invention, including the Opera, Operetta, and Opera Phenix high-content screening and imaging systems (the "Accused Systems").

8. On January 14, 2011, the University originally provided PerkinElmer with notice that it infringed the Subject Patents.

Jurisdiction and Venue

9. This Court has subject matter jurisdiction pursuant to 35 U.S.C. § 1338(a).

10. Venue is proper in this Judicial District pursuant to 35 U.S.C. § 1400(b).

11. This Court has personal jurisdiction over PerkinElmer by virtue of PerkinElmer's sales of and offers to sell the Accused Systems in this Judicial District.

Count I – Patent Infringement

12. The University hereby incorporates by reference the allegations contained in Paragraphs 1-11, above.

13. Upon information and belief, PerkinElmer has infringed directly and indirectly, and continue to infringe directly and indirectly the Subject Patents. The infringing acts include, but are not limited to, the manufacture, use, sale, or offer for sale within the United States, or the importation into the United States of the Accused Systems that embody the patented invention.

14. PerkinElmer's infringing acts constitute direct infringement of the Subject Patents in contravention of 35 U.S.C. § 271(a).

15. PerkinElmer's instructions to their customers as to the use of the Accused Systems, while knowing about the Subject Patents, and the infringement thereof, constitute induced infringement of such patents pursuant to 35 U.S.C. § 271(b).

16. PerkinElmer's sales of the Accused Systems to their customers constitute contributory infringement of the Subject Patents pursuant to 35 U.S.C. § 271(c).

17. PerkinElmer's infringement of the Subject Patents has caused injury to the University.

18. PerkinElmer's continued direct and indirect infringement of the Subject Patents, while knowing about such patents, and the infringement thereof, is, upon information and belief, willful.

WHEREFORE, the University respectfully requests that this Honorable Court award compensatory damages to the University sufficient to compensate it for PerkinElmer's infringement, along with interest thereon; treble such damages in light of PerkinElmer's willfulness; and award the University such further relief as the Court deems appropriate.

Dated: May 22, 2015

Respectfully submitted,

/s/ Shannon H. Paliotta

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