

Appeal Nos. 20-1475, 20-1605

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BIO-RAD LABORATORIES, INC.,
Appellant,

v.

INTERNATIONAL TRADE COMMISSION,
Appellee,

10X GENOMICS INC.,
Intervenor.

10X GENOMICS INC.,
Appellant,

v.

INTERNATIONAL TRADE COMMISSION,
Appellee,

BIO-RAD LABORATORIES, INC.,
Intervenor.

Appeals from the United States International Trade Commission,
Investigation No. 337-TA-1068

**BIO-RAD AND 10X'S UNOPPOSED JOINT MOTION FOR VOLUNTARY
DISMISSAL OF THE CONSOLIDATED APPEAL PURSUANT TO
FEDERAL RULE OF APPELLATE PROCEDURE 42(b)**

CERTIFICATE OF INTEREST FOR BIO-RAD LABORATORIES, INC.

Counsel for the appellant Brian C. Cannon certifies the following:

1. Full Name of Party Represented by me:

Bio-Rad Laboratories, Inc.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None/Not Applicable.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party represented by me are:

None/Not Applicable.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court (and who have not or will not enter an appearance in this case) are:

Quinn Emanuel Urquhart & Sullivan, LLP - Peter Benson, Jeffrey Gerchick, Ethan Glass, Anne S. Toker, Nancy Zhang

Sky C. Adams, Jeffrey Ung, formerly of Quinn Emanuel Urquhart & Sullivan, LLP

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. *See* Fed. Cir. R. 47. 4(a)(5) and 47.5(b).

Bio-Rad Laboratories, Inc. & Lawrence Livermore National Security, LLC v. 10X Genomics, Inc., Case No. 3:17-cv-4339 (N.D. Cal.); related case *Bio-Rad Laboratories Inc. v. 10X Genomics, Inc.*, Case No. 3:20-cv-3207 (N.D. Cal.).

6. Any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None/Not Applicable.

Date: July 27, 2021

/s/ Brian Cannon

Brian Cannon

AMENDED CERTIFICATE OF INTEREST FOR 10X GENOMICS, INC.

1. Provide the full names of all entities represented by undersigned counsel in this case.

10X Genomics, Inc.

2. Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.

None/Not Applicable.

3. Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.

None/Not Applicable.

4. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

Andrei Iancu, formerly with Irell & Manella LLP; David Gindler, formerly with Irell & Manella LLP; Samuel Lu, Irell & Manella LLP; Simone Park, formerly with Paul, Weiss, Rifkind, Wharton & Garrison LLP; Megan F. Raymond, Paul, Weiss, Rifkind, Wharton & Garrison LLP

5. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). *See also* Fed. Cir. R. 47.5(b).

Bio-Rad Laboratories, Inc. and Lawrence Livermore National Security, LLC v. 10X Genomics, Inc., Case No. 3:17-cv-4339 (N.D. Cal.), involves the assertion of the same patents-at-issue (as well as other patents). That case is stayed pending resolution of Commission Investigation No. 337-TA-1068. *Id.*, Dkt. No. 48 (Nov. 22, 2017). *Bio-Rad Laboratories Inc. v. 10X Genomics, Inc.*, Case No. 3:20-cv-3207 (N.D. Cal.), is related to Case No. 3:17-cv-4339.

6. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None/Not Applicable.

Dated: July 27, 2021

/s/ Nicholas Groombridge
Nicholas Groombridge

Each of Bio-Rad Laboratories, Inc. (“Bio-Rad”) and 10X Genomics, Inc. (“10X”) moves this Court to dismiss this consolidated appeal because Bio-Rad and 10X have resolved their disputes in this case in a settlement agreement. The International Trade Commission (“the Commission”) does not oppose this motion and will not file a response.

Each of the appeals that were consolidated in this appeal arise out of the same Investigation No. 337-TA-1068 before the Commission. Bio-Rad filed an appeal from the Final Determination of the Commission which this Court docketed as Appeal No. 20-1475; and 10X filed an appeal from the Final Determination of the Commission which this Court docketed as Appeal No. 20-1605. This Court heard oral argument on April 7, 2021 in the consolidated appeal and issued a panel decision on May 28, 2021. *See Bio-Rad Labs., Inc. v. Int’l Trade Comm’n*, 998 F.3d 1320 (Fed. Cir. 2021). 10X filed a combined petition for panel rehearing and rehearing *en banc* on July 12, 2021 (Dkt. No. 78), and the Court invited a response from Bio-Rad and the Commission on July 13, 2021. (Dkt. No. 79.) The mandate has not yet issued.

Following the panel decision, Bio-Rad and 10X resolved their disputes in this case in a settlement agreement. Accordingly: (1) for Appeal No. 20-1475, Bio-Rad voluntarily dismisses its appeal pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure, with 10X’s consent; and (2) for Appeal No. 20-

1605, 10X voluntarily dismisses its appeal pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure, with Bio-Rad's consent.

Bio-Rad and 10X have agreed that each party shall bear its own costs, expenses, and attorneys' fees, whether incurred before the Commission or in this consolidated appeal.

Accordingly, Bio-Rad and 10X respectfully request that the Court dismiss this consolidated appeal.

Dated: July 27, 2021

Respectfully submitted,

/s/ Brian Cannon
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**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATIONS**

Case Number: 2020-1475, 2020-1605

Short Case Caption: Bio-Rad Laboratories, Inc. v. ITC

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because it meets one of the following:

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Date: July 27, 2021

Signature: /s/ Nicholas Groombridge

Name: Nicholas Groombridge

CERTIFICATE OF SERVICE

I hereby certify that on this 27th of July, 2021, I caused a copy of this motion to be electronically filed using the CM/ECF system and to be served by electronic mail on the following:

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Dated: July 27, 2021

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