



Press release dated August 02, 2023

BARDEHLE PAGENBERG achieves another victory for 10x Genomics against NanoString

By judgement of July 20, 2023, the German Regional Court of Munich I upheld the first ever anti-anti-suit/enforcement injunction in a German life sciences patent case in favor of 10x Genomics (docket no. 7 O 5416/23). This is another win of 10x Genomics in an ongoing international patent litigation battle against NanoString.

10x Genomics is a highly innovative US life science company that designs and manufactures life science technology used in basic scientific research. In March 2022 it filed two patent infringement lawsuits against NanoString with the Regional Court of Munich I to protect ground-breaking intellectual property that underlies its Xenium platform. 10x Xenium platform allows analyses of gene expression in tissues and distinguishes itself in characteristics that matter most to scientists.

The German patent infringement action against NanoString is based on indirect infringement of claim 1 of European patent EP 2 794 928 B1 restricted particularly to in-situ detection of RNA molecules (the patent). 10x Genomics obtained an exclusive license to the patent from the patent owner President and Fellows of Harvard College (Harvard Corporation). On May 17, 2023 the Court held that NanoString Technologies Inc. and NanoString Technologies GmbH infringe the patent by offering and distributing their products CosMx Spatial Molecular Imager and CosMx reagents in Germany for RNA detection (docket nos. 7 O 2693/22 and 7 O 5812/22; [BARDEHLE PAGENBERG paves way to successful infringement proceedings for 10x Genomics with anti-anti-suit-injunction | BARDEHLE PAGENBERG; 10x Genomics Wins Permanent Injunction Against NanoString's CosMx Products | 10x Genomics](#)). Both injunctions were provisionally enforced against a security bond. NanoString Technologies Inc. and NanoString Technologies GmbH filed an appeal which is pending.

Prior to these judgements NanoString Technologies Inc. tried to prevent the pronouncement and enforcement by filing an anti-suit/enforcement injunction in parallel U.S. proceedings with the U.S. District Court for the District of Delaware on April 27, 2023. On April 28, 2023, 10x Genomics obtained an *ex parte* anti-anti-suit/enforcement injunction from the Regional Court of Munich I and initiated its enforcement. Subsequently, NanoString Technologies Inc. withdrew their anti-

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suit/enforcement injunction request before the U.S. Court and filed an appeal before the German Court. After the exchange of various briefs and an oral hearing held on July 20, 2023, the German Court confirmed the anti-anti-suit/enforcement injunction by judgment of the same day and ordered NanoString Technologies Inc. to bear the costs of the proceedings. The judgment is subject to another appeal.

Meanwhile parallel infringement proceedings for a preliminary injunction are pending with the newly established European Unified Patent Court which will be heard in September 2023 ([10x Genomics Files Two New Lawsuits Requesting Preliminary Injunctions Against NanoString's CosMx Products | 10x Genomics](#)).

NanoString Technologies GmbH filed a nullity action against the German part of EP 2 794 928 B1 (3 Ni 20/22 (EP)). However, pursuant to the written preliminary opinion of the Federal Patent Court of February 7, 2023, the patent is valid in the form asserted in the infringement proceedings. A trial was scheduled for May 7, 2024.

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Regional Court of Munich I, 7th Chamber

Judge Dr. Schön (Presiding Judge at the Regional Court)

Judge Dr. Schacht (Judge at the Regional Court)

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BARDEHLE PAGENBERG combines the professional expertise of attorneys-at-law, patent attorneys, professional representatives before the European Patent Office, specialized trademark lawyers and qualified technical consultants. Our consulting services are tailored to our clients' individual needs and the specific circumstances of each case.

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