

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BIO-RAD LABORATORIES, INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner

Case No. IPR2025-01546

SUPPLEMENTAL BRIEF REGARDING CLAIM CONSTRUCTION FOR U.S.
PATENT NO. 12,168,797 PURSUANT TO BOARD'S FEBRUARY 12, 2026
ORDER

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PETITIONER'S EXHIBIT LIST

Exhibit #	Description
EX1001	U.S. Patent No. 12,168,797 “the ’797 patent”
EX1002	Declaration of Carl A. Batt, Ph.D.
EX1003	U.S. Patent No. 9,921,154 “Jouvenot”
EX1004	U.S. Patent Provisional Application No. 61/507,082 (filed July 13, 2011) (Serge Saxonov, Simant Dube, John F. Regan, applicants) (“the ’082 Provisional”)
EX1005	Declaration of Kevin Struhl, Ph.D., <i>Bio-Rad Labs., Inc. v. Cal. Inst. Tech.</i> , IPR2024-01451, EX2001 (Dec. 30, 2024)
EX1006	Joseph R. Lakowicz, <i>Principles of Fluorescence Spectroscopy</i> (3d. 2006)
EX1007	Petition for <i>Inter Partes</i> Review of U.S. Patent No. 11,827,921, <i>Bio-Rad Labs., Inc. v. Cal. Inst. Tech.</i> , IPR2024-01451, Paper 1 (Sept. 16, 2024)
EX1008	U.S. Patent No. 8,614,061 “Brabetz”
EX1009	U.S. Patent No. 12,168,797 Infringement Claim Charts from Infringement Contentions, served on July 2, 2025, <i>In re ChromaCode</i> , Case No. 5:23-cv-04823, N.D. Cal.
EX1010	Internet Archive WayBackMachine, Feb. 22, 2024, archived copy of Synbio Technologies, Precision and Accuracy with TaqMan Probes, https://synbio-tech.com/precision-and-accuracy-with-taqman-probes/ , https://web.archive.org/web/20240519044916/https://synbio-tech.com/precision-and-accuracy-with-taqman-probes/ , accessed Sept. 12, 2024.
EX1011	Pamela M. Holland, et al., “Detection of specific polymerase chain reaction product by utilizing the 5’ → 3’ exonuclease activity of <i>Thermus aquaticus</i> DNA polymerase,” <i>Proc. Natl. Acad. Sci. USA</i> , Vol. 88, pp. 7276-7280, August 1991 Biochemistry “TaqMan Paper”

Exhibit #	Description
EX1012	U.S. Patent Application Publication No. US 2008/0003649 A1 “Maltezos”
EX1013	U.S. Patent Application Publication No. US 2011/0250597 A1 “Larson”
EX1014	Complaint for Patent Infringement of U.S. Patent Nos. 12,168,797, filed on February, 18 2025, Dkt No. 1, <i>Cal. Inst. of Tech. v. Bio-Rad, Laby’s, Inc.</i> , Case No. 6:25-cv-01701, consolidated into <i>In re ChromaCode Litigation</i> , Case No. 5:23-cv-04823-EKL (N.D. Cal.).
EX1015	Shivaprasad H. Sathyanarayana and Lauren M. Wainman, “Chapter 2, Laboratory approaches in molecular pathology: the polymerase chain reaction,” <i>Diagnostic Molecular Pathology</i> , 2024
EX1016	Deposition of Kevin Struhl, Ph.D., <i>Bio-Rad Labs., Inc. v. Cal. Inst. Tech.</i> , IPR2024-01451 (July 24, 2025)
EX1017	U.S. Patent Application Publication No. US 2010/0227386 A1 “Neuzil”
EX1018	U.S. Patent Application Publication No. US 2003/0219754 A1 “Oleksy”
EX1019	U.S. Patent Application Publication No. US 2009/0239308 A1 “Dube”
EX1020	U.S. Patent Application Publication No. US 2009/0258414 A1 “Wittwer”
EX1021	U.S. Patent Application Publication No. US 2012/0100600 A1 “Slepnev”
EX1022	European Patent Specification 0,594,763 B1 “Lehnen”
EX1023	Nucleic Acids, https://www.genome.gov/genetics-glossary/Nucleic-Acids , updated September 2, 2025
EX1024	Introduction of Molecular Beacons, https://molecularbeacons.org/MB_introduction.html (downloaded July 10, 2024)

Exhibit #	Description
EX1025	Notice of Allowance from Prosecution File History of U.S. Patent No. 12,168,797, filed on November 18, 2024
EX1026	Final Rejection of U.S. Patent No. 12,168,797, filed on July 13, 2023
EX1027	Information Disclosure Statement noting Saxonov from Prosecution File History of U.S. Patent No. 10,068,051 filed on August 5, 2014
EX1028	Information Disclosure Statement from Prosecution File History of U.S. Patent No. 10,770,170 filed on March 7, 2018
EX1029	Information Disclosure Statement from Prosecution File History of U.S. Patent No. 11,827,921 filed on May 1, 2020
EX1030	Information Disclosure Statement from Prosecution File History of U.S. Patent No. 12,168,797 filed on July 13, 2023
EX1031	Declaration of Maria P Garcia, IP Research Librarian
EX1032	<i>University of British Columbia v. Caption Health, Inc., et al.</i> , No. 24-cv-03200-EKL, Slip Op. (N.D. Cal. Aug. 6, 2025)
EX1033	Plaintiffs California Institute of Technology and ChromaCode, Inc.’s Opening Claim Construction Brief for the ’797 Patent, filed on October, 29 2025, Dkt No. 160, <i>In re ChromaCode Litigation</i> , Case No. 5:23-cv-04823-EKL (VKD) (N.D. Cal.).
EX1034	Mingyong Han, et al., “Quantum-dot-tagged microbeads for multiplexed optical coding of biomolecules,” <i>nature biotechnology</i> , Volume 19, pp. 631-635, July 2001, “Han”
EX1035	The Examiner’s search terms and results from Prosecution File History of U.S. Patent No. 12,168,797 filed on July 13, 2023
EX1036	Order, filed on December 19, 2025, Dkt No. 178, <i>In re ChromaCode Litigation</i> , Case No. 5:23-cv-04823-EKL (VKD) (N.D. Cal.).
EX1037	Order Granting Joint Proposed Case Schedule, filed on September 22, 2025, Dkt. 151, <i>In re ChromaCode Litigation</i> , Case No. 5:23-cv-04823-EKL (VKD) (N.D. Cal.).

Exhibit #	Description
EX1038	Claim Construction Order [Re: U.S. Patent No. 12,168,797], Dkt. 190, <i>In re ChromaCode Litigation</i> , Case No. 5:23-cv-04823-EKL (VKD) (N.D. Cal.).

In its POPR, Caltech boasts that its claims encompass various sophisticated and challenging methods. *See, e.g.*, POPR at 35, 44. The claims, however, remain invalid if they *also encompass* prior art methods. The district court’s constructions, if adopted, confirm that they do.

As to the “associating” term, the court ruled that analyte signals need not follow any pattern, instead construing the term to have its “plain and ordinary meaning.” EX1038 at 11. The district court seemingly adopted PO’s argument that the claims only require that “an intensity or range of intensities and a wavelength (color) or range of wavelengths are associated with each analyte.” *Id.* The court similarly construed “F” to merely have its plain and ordinary meaning. *Id.* at 4. In support, the court cited the specification as supposedly teaching an approach wherein signals for each analyte need merely be “grouped into ‘bands’ that correspond to integer values.” *Id.* at 7. Assuming the district court’s constructions are correct, there can be no doubt of invalidity in view of Jouvenot. Indeed, PO admits that Jouvenot assigns analytes to discrete data bands. *See* POPR at 17-20. PO’s own expert also confirmed that the signals in Jouvenot fall into intervals wherein the maximum intensity is 3. *See* Petition at 43-44. This satisfies the claims. *Id.* at 47.

Claims cannot be “argued one way in order to maintain their patentability and in a different way against accused infringers.” *Aylus Networks, Inc. v. Apple Inc.*, 856 F.3d 1353, 1360 (Fed. Cir. 2017). The Board should institute review.

Dated: February 18, 2026

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of SUPPLEMENTAL BRIEF REGARDING CLAIM CONSTRUCTION FOR U.S. PATENT NO. 12,168,797 PURSUANT TO BOARD'S FEBRUARY 12, 2026 ORDER AND EXHIBIT 1038 are being served on February 18, 2026, via email pursuant to 37 C.F.R. § 42.6(e) to the Patent Owner at the address below:

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