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1	BRIAN M. KRAMER (CA SBN 212107) BMKramer@mofo.com JOHN R. LANHAM (CA SBN 289382) JLanham@mofo.com		
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3	DEAN S. ATYIA (CA SBN 298615) DAtyia@mofo.com		
4	MORRISON & FOERSTER LLP 12531 High Bluff Drive		
5	San Diego, California 92130-2040 Telephone: 858.720.5100 Facsimile: 858.720.5125		
6	Facsimile: 858.720.5125		
7	Attorneys for Plaintiff DNA GENOTEK INC.		
8	DINA GENOTEK INC.		
9	IN THE UNITED STATES DISTRICT COURT		
10	FOR THE SOUTHERN DISTRICT OF CALIFORNIA		
11			
12	DNA GENOTEK INC., a Delaware	Case No. 16CV1544 MMANLS	
13	Corporation,		
14	Plaintiff,	COMPLAINT FOR PATENT INFRINGEMENT	
14 15	v.		
	v.	INFRINGEMENT	
15	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited	INFRINGEMENT	
15 16	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited Liability Company,	INFRINGEMENT	
15 16 17	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited	INFRINGEMENT	
15 16 17 18 19 20	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited Liability Company,	INFRINGEMENT JURY TRIAL DEMANDED	
15 16 17 18 19	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited Liability Company, Defendants.	INFRINGEMENT JURY TRIAL DEMANDED	
15 16 17 18 19 20	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited Liability Company, Defendants. Plaintiff DNA Genotek Inc. ("DNA G Complaint, alleges as follows:	INFRINGEMENT JURY TRIAL DEMANDED	
 15 16 17 18 19 20 21 	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited Liability Company, Defendants. Plaintiff DNA Genotek Inc. ("DNA G Complaint, alleges as follows:	INFRINGEMENT JURY TRIAL DEMANDED	
 15 16 17 18 19 20 21 22 	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited Liability Company, Defendants. Plaintiff DNA Genotek Inc. ("DNA G Complaint, alleges as follows: 1. This is an action for patent infri	INFRINGEMENT JURY TRIAL DEMANDED Genotek"), by its attorneys, for its ingement arising under the patent laws Code, involving United States Patent	
 15 16 17 18 19 20 21 22 23 	v. SPECTRUM SOLUTIONS L.L.C., a Utah Limited Liability Company, and SPECTRUM DNA, a Utah Limited Liability Company, Defendants. Plaintiff DNA Genotek Inc. ("DNA C Complaint, alleges as follows: 1. This is an action for patent infr of the United States, Title 35, United States No. 9,207,164 B2 ("the '164 patent") (attack	INFRINGEMENT JURY TRIAL DEMANDED Genotek"), by its attorneys, for its ingement arising under the patent laws Code, involving United States Patent hed as Exhibit A hereto).	
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of OraSure Technologies, Inc., a Delaware corporation with its principal place of business in Bethlehem, Pennsylvania.

Upon information and belief, Spectrum Solutions L.L.C. is a Utah 3 3. limited liability companies with its principal place of business in Draper, Utah. 4 5 Upon information and belief, Spectrum DNA is a division of Spectrum Solutions 6 L.L.C. (collectively "Spectrum"). Spectrum Solutions L.L.C. was formerly known 7 as Spectrum Packaging, L.L.C.

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JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws 10 of the United States, Title 35, Section 1, et seq. of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

12 5. This Court has personal jurisdiction over Spectrum because it has 13 purposefully availed itself of the privileges and benefits of the laws of the State of 14 California. Upon information and belief, Spectrum, its agents, subsidiaries, 15 employees, market products in California and ship products to California that 16 infringe the '164 patent. Spectrum maintains at least two websites. It registered the 17 domain name, www.spectrum-dna.com, on July 28, 2015. Spectrum also hired a 18 marketing company that launched an additional website, through which Spectrum 19 markets its DNA collection devices throughout the United States, including 20 California. On information and belief, before July 28, 2015, Spectrum concealed 21 its making, using, selling, offering for sale, or importing the Spectrum product from 22 DNA Genotek and much of the public. Spectrum, its agents, subsidiaries, 23 employees, and/or affiliates target customers with ties to California through at least 24 one of their websites, which describes Spectrum as a company responding to a need 25 "in the DNA space calling for an innovative saliva DNA collection device" and 26 offering "an innovative device that is user friendly and produces excellent clinical 27 results."

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1 6. Upon information and belief, Spectrum manufactures at least two 2 DNA saliva collection devices that infringe the '164 patent. Infringing products include Spectrum Model No. SS-SAL-1 and ACOMD-0100. Upon information and 3 4 belief, Defendant Spectrum DNA makes, sells, offers for sale, and imports DNA saliva collection devices that infringe the '164 patent (the "Spectrum Product"). 5 6 Upon information and belief, Spectrum assembles and sells DNA saliva collection 7 devices that are shipped in interstate commerce, including to California, and that 8 infringe the '164 patent.

97.Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c), and101400(b).

FACTUAL BACKGROUND

8. DNA Genotek is a leading provider of products for biological sample
collection, including oral fluid sample collection and stabilization solutions for
molecular applications. DNA Genotek has revolutionized the nucleic acid (DNA
and RNA) collection market with products that provide substantial advantages over
traditional methods of biological sample collection. DNA Genotek's products
incorporate proprietary technology that is protected by a robust patent estate.

9. DNA Genotek developed and patented its proprietary saliva DNA
 collection kits ("DNA Genotek Saliva Collection Products"). DNA Genotek sells
 the DNA Genotek Saliva Collection Products to customers and distributors
 worldwide, including in this district.

10. DNA Genotek is the owner by assignment of all right, title, and
interest in and to the '164 patent, which duly and legally issued to DNA Genotek,
as assignee of Rod Muir, Derek Kirkland, Ian Curry, Roy Sunstrum, Paul Lem, and
H. Chaim Birnboim, on December 8, 2015.

26 11. Spectrum registered the website www.spectrum-dna.com on July 28,
 27 2015. On or about July 29, 2015, Spectrum's website became publicly accessible.
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On July 30, 2015, DNA Genotek filed suit against Spectrum in the District of 1 Delaware, alleging the Spectrum infringes United States Patent No. 8,221,381 B2 2 (the '381 patent), entitled "Container System for Releasably Storing a Substance." 3 The '381 patent and the '164 patent are part of the same patent family. 4 5 12. Spectrum has been and is now infringing one or more claims of the 6 '164 patent. 13. Spectrum infringes the '164 patent, either literally or under the 7 doctrine of equivalents, by making, using, offering for sale, selling and/or 8 9 importing the Spectrum Product. On information and belief, Spectrum has been aware of the '164 patent 10 14. at least as of December 2015. Spectrum has been aware of the patent application 11 leading to the '164 patent at least as early as July 2015. 12 15. Spectrum was aware of the '164 patent when engaging in these 13 knowing and purposeful activities and was aware that the making, using, selling, or 14 offering for sale of the Spectrum Product or services incorporating the Spectrum 15 16 Product constituted an act of infringement of the '164 patent. 16. On its website, Spectrum claims to have "[c]omplete fulfillment 17 capabilities," including direct shipping to customers. Examples of products shipped 18 to the Southern District of California described on Spectrum's website include this 19 20 device: 21 22 23 24 25 26

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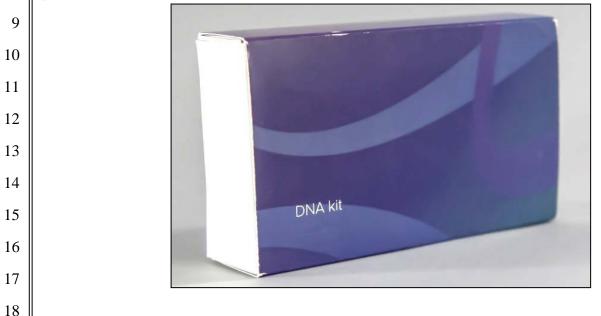
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COMPLAINT FOR PATENT INFRINGEMENT



1 17. Upon information and belief, apart from its sale of the Spectrum
 Product to individuals throughout the country, including California, Spectrum has
 shipped and offered for sale the Spectrum Product to persons and/or entities who
 maintain business operations and headquarters in the Southern District of
 California.

18. Spectrum's website also includes a depiction of an alternativelylabeled Spectrum Product that Spectrum offers for sale in California. This is the
picture from the website:



http://www.spectrum-dna.com/wp-content/uploads/2015/06/spectrumdna-kit-101 e1442898548499.jpg.

19. The following pictures depict an alternatively-labeled Spectrum Product that Spectrum manufactured. Spectrum sold the below depicted product to a customer in California. Spectrum shipped the product to a customer in California.

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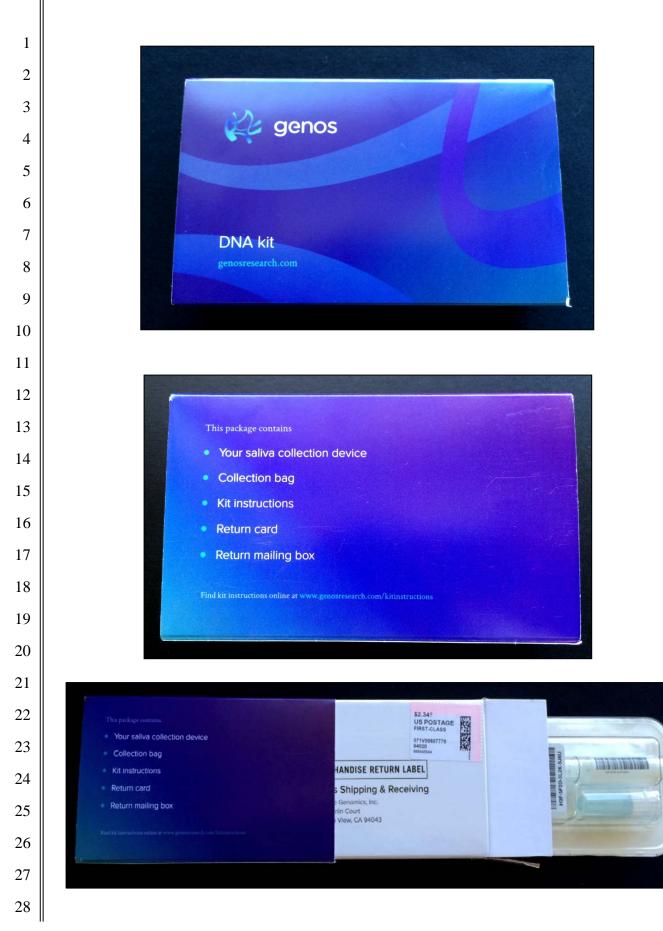
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COUNT I – INFRINGEMENT OF THE '164 PATENT

20. DNA Genotek restates and incorporates by reference paragraphs 1-19, as if fully set forth herein.

21. Spectrum has been and is now infringing one or more claims of the'164 patent, either literally or by the doctrine of equivalents.

22. Spectrum's infringing activities include making, using, offering for sale, selling, and/or importing into the United States products that infringe one or more claims of the '164 patent.

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23. Spectrum's infringing activities violate 35 U.S.C. § 271.

24. As a result of Spectrum's infringement of the '164 patent, DNA
Genotek has been and will be damaged, and DNA Genotek is entitled to be
compensated for such damages pursuant to 35 U.S.C. § 284 in an amount to be
determined at trial, but in no event less than a reasonable royalty.

Upon information and belief, Spectrum's infringement of the '164
patent will continue unless enjoined by this Court. As a result of Spectrum's
infringement, DNA Genotek has suffered and will continue to suffer irreparable
harm for which there is no adequate remedy at law. Accordingly, DNA Genotek is
entitled to injunctive relief against such infringement.

20 26. As a result of Spectrum's infringement, DNA Genotek has suffered
 21 and will continue to suffer significant damages.

PRAYER FOR RELIEF

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WHEREFORE, DNA Genotek respectfully requests the following relief:

(a) Entry of judgment that Spectrum has infringed the '164 patent;

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(b) Preliminary and permanent injunctive relief enjoining Spectrum, its
officers, agents, servants, employees, attorneys, and all other persons in active
concert or participation with them, from directly or indirectly infringing the '164
patent;

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1	(c) An award of damages adequate to compensate DNA Genotek for	
2	Spectrum's infringement of the '164 patent;	
3	(d) A declaration that this case is exceptional under 35 U.S.C. § 285,	
4	and/or other applicable authority;	
5	(e) An award of DNA Genotek's costs and attorneys' fees incurred in	
6	connection with this action, under 35 U.S.C. § 285, and other applicable authority;	
7	(f) An award of pre-judgment interest; and	
8	(g) Such other and further relief as this Court deems just and proper.	
9	DEMAND FOR JURY TRIAL	
10	DNA Genotek hereby demands trial by jury on all issues so triable.	
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12	Dated: June 20, 2016 BRIAN M. KRAMER	
13	JOHN R. LANHAM	
14	DEAN S. ATYIA MORRISON & FOERSTER LLP	
15		
16	By: <u>/s/ Brian M. Kramer</u>	
17	Brian M. Kramer	
18	Attorney for Plaintiff	
19	DNA GENOTEK INC.	
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