

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**ENZO LIFE SCIENCES, INC.,**

**Plaintiff,**

**v.**

**ROCHE MOLECULAR SYSTEMS, INC.,  
ROCHE DIAGNOSTICS CORPORATION,  
ROCHE DIAGNOSTICS OPERATIONS,  
INC., AND ROCHE NIMBLEGEN, INC.,**

**Defendant.**

**CIVIL ACTION NO. 12-106-LPS**

**NOTICE OF APPEAL**

Notice is hereby given that Plaintiff Enzo Life Sciences, Inc. (“Enzo”) in the above named case hereby appeals to the United States Court of Appeals for the Federal Circuit from the partial final judgment pursuant to Fed. R. Civ. P. 54(b) entered by the District Court in the above named case on August 2, 2017 (12-106 D.I. 335), and from any and all underlying and/or interlocutory decisions, orders, findings, or conclusions of the District Court relating to, pertinent to, or ancillary to the judgment, both written and oral, including but not limited to those in the District Court’s June 28, 2017 Opinion and Order granting summary judgment that the asserted claims of U.S. Patent No. 6,992,180 are invalid for non-enablement (D.I. 328, 329).

This case is related to *Enzo Life Sciences, Inc. v. Gen-Probe Inc.*, 12-cv-104-LPS (D. Del.) (the “Gen-Probe Action”) and *Enzo Life Sciences, Inc. v. Hologic, Inc.*, 12-cv-276-LPS (D. Del.) (the “Hologic Action”), in that the Court’s June 28, 2017 Opinion and Order was also entered in both of those actions (12-cv-104 D.I. 284, 285; 12-cv-276 D.I. 257, 258) and resulted in the entry of final judgment in both of those actions. (12-cv-104 D.I. 290; 12-cv-276 D.I. 263.) Appeals from those final judgments, and the same underlying June 28, 2017 Opinion and Order, are currently pending before the Federal Circuit in Case Nos. 17-2354 and 17-2355, respectively.

This case is also related to *Enzo Life Sciences, Inc. v. Becton, Dickinson & Company, et al*, 12-cv-275-LPS (D. Del.) (the “BD Action”), in which the Court’s June 28, 2017 Opinion and Order was also entered (12-cv-275 D.I. 331, 332), and in which partial final judgment pursuant to Fed. R. Civ. P. 54(b) was entered on the basis of that Order. (12-cv-275 D.I. 339.) Enzo is filing a Notice of Appeal in the BD Action concurrently to this Notice of Appeal.

The docketing fee of \$500 required by 28 U.S.C. § 1913, and the Notice of Appeal fee of \$5 required by 28 U.S.C. § 1917, totaling \$505, are submitted herewith.

Dated: August 23, 2017

By: Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)

919 North Market Street

12<sup>th</sup> Floor

Wilmington, DE 19801

(302) 777-0300

(302) 777-0301

bfarnan@farnanlaw.com

John M. Desmarais (admitted *pro hac vice*)

Michael P. Stadnick (admitted *pro hac vice*)

Justin P.D. Wilcox (admitted *pro hac vice*)

Jordan N. Malz (admitted *pro hac vice*)

Peter C. Magic (admitted *pro hac vice*)

DESMARAIS LLP

230 Park Avenue

New York, NY 10169

(212) 351-3400

(212) 351-3401

jdesmarais@desmaraisllp.com

mstadnick@desmaraisllp.com

jwilcox@desmaraisllp.com

jmalz@desmaraisllp.com

pmagic@desmaraisllp.com

*Counsel for Plaintiff Enzo Life Sciences, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 23, 2017, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on August 23, 2017, upon the following in the manner indicated:

Frederick L. Cottrell, III  
Katharine C. Lester  
Nicole K. Pedi  
Richards, Layton & Finger, PA  
One Rodney Square  
920 N. King Street  
Wilmington, DE 19801  
(302) 651-7700  
[cottrell@rlf.com](mailto:cottrell@rlf.com)  
[lester@rlf.com](mailto:lester@rlf.com)  
[pedi@rlf.com](mailto:pedi@rlf.com)

*VIA ELECTRONIC MAIL*

*Attorneys for Defendants Roche Diagnostics Corporation, Roche Diagnostics Operations Inc., Roche Molecular Systems Inc. and Roche NimbleGen, Inc.*

/s/ Brian E. Farnan  
Brian E. Farnan (Bar No. 4089)