IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Encoditech LLC,	Case No.
Plaintiff,	Patent Case
v.	Jury Trial Demanded
Roche Diabetes Care, Inc.	
Defendant.	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, ("Encoditech"), through its attorney, Isaac Rabicoff, complains of Roche Diabetes Care, Inc. ("Roche") and alleges the following:

PARTIES

1. Plaintiff Encoditech LLC is a corporation organized and existing under the laws of Texas that maintains its principal place of business at 3415 Custer Road, Suite 120-A, Plano, Texas, 75023.

2. Defendant Roche Diabetes Care, Inc. is a corporation organized and existing under the laws of Delaware that maintains its principal place of business at 9115 Hague Rd., Indianapolis, Indiana 46256.

JURISDICTION

3. This is an action for patent infringement arises under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Roche because it has engaged in

systematic and continuous business activities in the District of Delaware. Specifically, Roche is incorporated in the state of Delaware and provides its full range of services to residents in this District. As described below, Roche has committed acts of patent infringement giving rise to this action within this District.

VENUE

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because Roche has committed acts of patent infringement in this District, and Roche is incorporated in the state of Delaware. In addition, Encoditech has suffered harm in this District.

PATENT-IN-SUIT

7. Encoditech is the assignee of all right, title and interest in United States Patent No. 6,321,095 (the "'095 Patent") including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Encoditech possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Roche.

The '095 Patent

8. On November 20, 2001, the United States Patent and Trademark Office issued the '095 Patent. The '095 Patent is titled "Wireless Communications Approach." The application leading to the '095 Patent was filed on March 26, 1999. A true and correct copy of the '095 Patent is attached hereto as Exhibit A.

9. A certificate of correction for the '095 Patent was filed on May 4, 2017. A true and correct copy of the certificate of correction is attached hereto as Exhibit B.

10. The '095 Patent is valid and enforceable.

11. The invention claimed in the '095 Patent relates to a mobile station that

provides direct, wireless communications with another mobile station on a portion of a radio frequency (RF) band. Ex. A at 2:54-57.

12. The inventors wanted to improve wireless communications, without requiring the physical infrastructure of digital cellular telephone systems. *Id.* at 3:58-61.

13. The ’095 Patent claims are not directed to a method of organizing human activity or to a fundamental economic practice long prevalent in commerce. The ’095 Patent describes a system that addresses a technical problem--providing wireless communications methods that allow for more than one user to communicate with another and have private conversations, *id.* at 1:32-46--with a technical solution, providing direct, wireless communications using a frequency division multiple access/time division multiple access communication protocol. *Id.* at 2:30-34.

14. The ’095 Patent does not preempt the field or preclude the use of other methods of providing wireless communications. The claims are directed to mobile stations “configured to select a portion of a radio frequency (RF) band” and “transmit a first signal on a first sub-portion.” *Id.* at claim 1. The ’095 Patent identifies other methods of providing wireless communications which are generally described “in the context of a non-frequency hopping application.” *Id.* at 12:10-12.

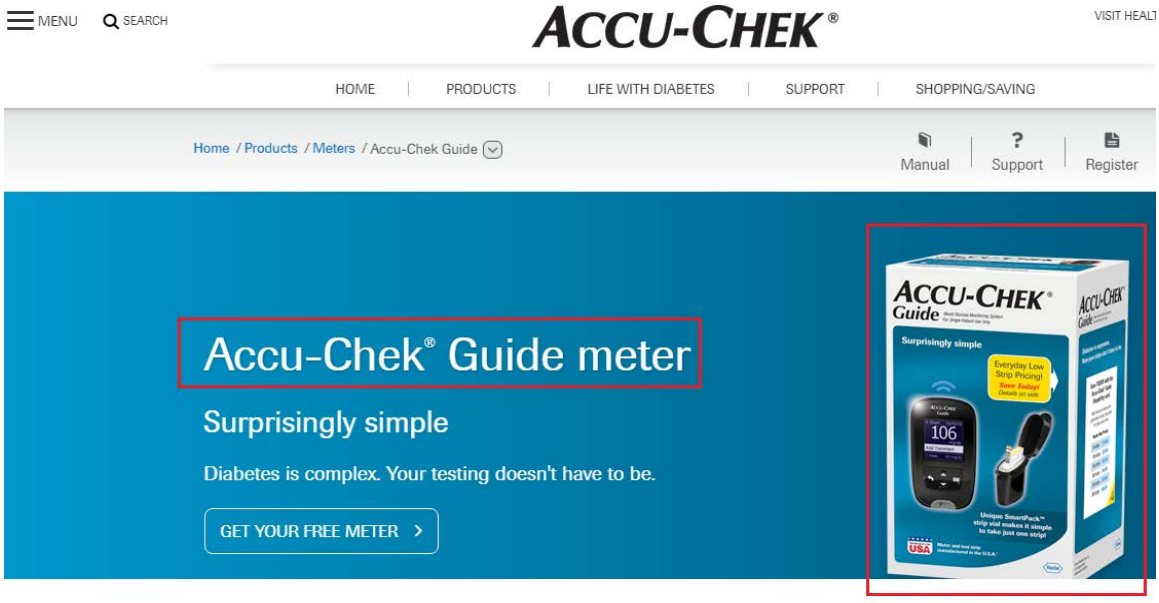
15. The ’095 Patent does not take a well-known or established business method or process and apply it to a general-purpose computer. Instead, the specific system and processes described in the ’095 Patent have no direct corollary to a well-known business process. The ’095 Patent describes a system that addresses a technical problem that arises in the context of providing wireless communications. *See id.* at 1:32-46. The invention has improved wireless communications by providing direct, wireless communications using a

frequency division multiple access/time division multiple access communication protocol. *Id.* at 2:30-34.

COUNT I: INFRINGEMENT OF THE '095 PATENT

16. Encoditech incorporates the above paragraphs herein by reference.

17. **Direct Infringement.** Roche has been and continues to directly infringe at least claim 7 of the '095 Patent in this District and elsewhere in the United States, by providing an app that satisfies the preamble of claim 7" "[a] wireless communications system." For example, Roche's app monitors blood pressure, heartrate and irregular heartbeats by combining the Rochearm with an electronic device, such as a phone tablet. Upon information and belief, Roche has performed each step of claim 7 at least by internal testing of Roche's app. *See* Figure 1; https://www.accu-chek.com/meters/guide-meter.



Two flavors of Bluetooth

The two most prevalent implementations of the specification are Bluetooth Basic Rate/Enhanced Data Rate (BR/EDR), which was adopted as version 2.0/2.1, and Bluetooth with low energy (LE), which was adopted as version 4.0/4.1/4.2/5.0. Each implementation has different use cases and each implementation uses a different chipset to meet essential hardware requirements. Dual-mode chipsets are also available for applications that include both use cases.

Product Limitations

See the literature packaged with the test strips and control solutions for the latest information on product specifications and limitations.

Specifications	
Blood volume Sample type Measuring time Measuring range Test strip storage conditions System operating conditions	Refer to the test strip package insert.
Meter storage conditions	Temperature: -13–158 °F
Memory capacity	720 blood glucose results and 32 control results with time and date
Automatic off	90 seconds
Power supply	Two 3-volt lithium batteries (coin cell type CR2032)
Display	LCD
Dimensions	80 × 47 × 20 mm (LWH)
Weight	Approx. 40 g (with batteries)
Construction	Hand-held
Protection class	III
Meter type	The Accu-Chek Guide meter is suitable for continuous operation.
Control solution storage conditions	Refer to the control solution package insert.
Interfaces	USB: micro-B connector; Bluetooth Low Energy; Continua Certified® to a Continua Certified manager.
Radio frequency connectivity	Bluetooth low energy technology operating in the frequency band of 2402 MHz to 2480 MHz with a maximum transmitted power of 0 dBm (1 mW).

10 Technical Information

***Bluetooth*® Wireless Technology** –The meter uses *Bluetooth* Low Energy wireless technology to communicate and transfer information. *Bluetooth* wireless technology is a form or radio frequency (RF) technology that operates in the unlicensed industrial, scientific and medical band at 2.4 to 2.485 GHz. The RF channel utilized for communication between the meter and other devices, such as a smartphone, is not an open channel. The meter can only communicate with the device that

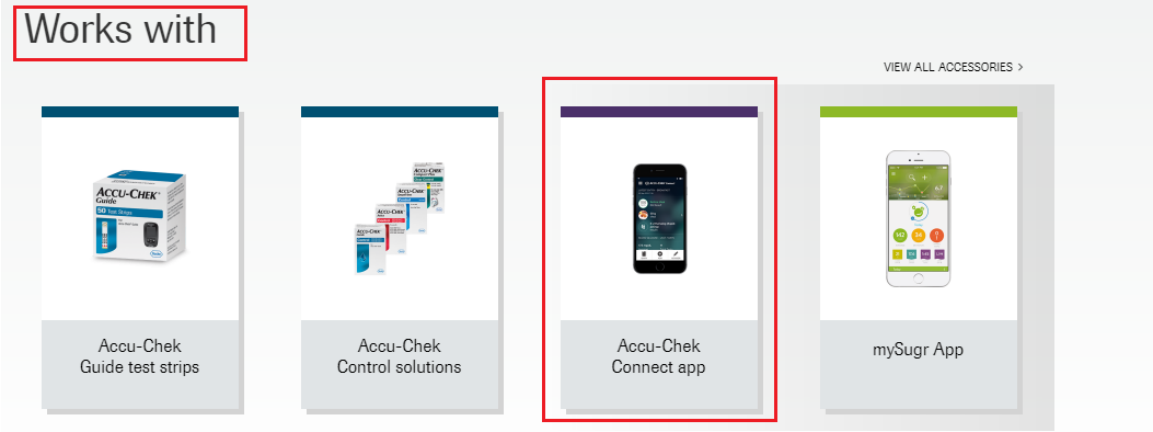
1. utilizes *Bluetooth* Low Energy technology,
2. it is paired with, and
3. has an application that can accept the meter's data.

This device complies with United States Federal Communication Commission (FCC) standards. The device complies with FCC Part 15 Rules. Operation of the device is subject to the following conditions:

1. This device may not cause harmful interference and
2. must accept any interference received, including interference that may cause undesired operation.

Compliance with these guidelines means that under normal, daily circumstances, the device should not affect the operation of other devices. In addition, the device should operate normally in the presence of other devices.

In the event there is interference from another device, it is recommended that you increase the distance between the meter and that device. You can also turn off the interfering device. In addition, you can turn off *Bluetooth* Low Energy wireless technology on the meter. Changes or modifications to the device not expressly approved by Roche could void the user's authority to operate the device. The device has been tested and found to comply with the limits for a Class B digital device. The device generates, uses, and can radiate radio frequency energy.



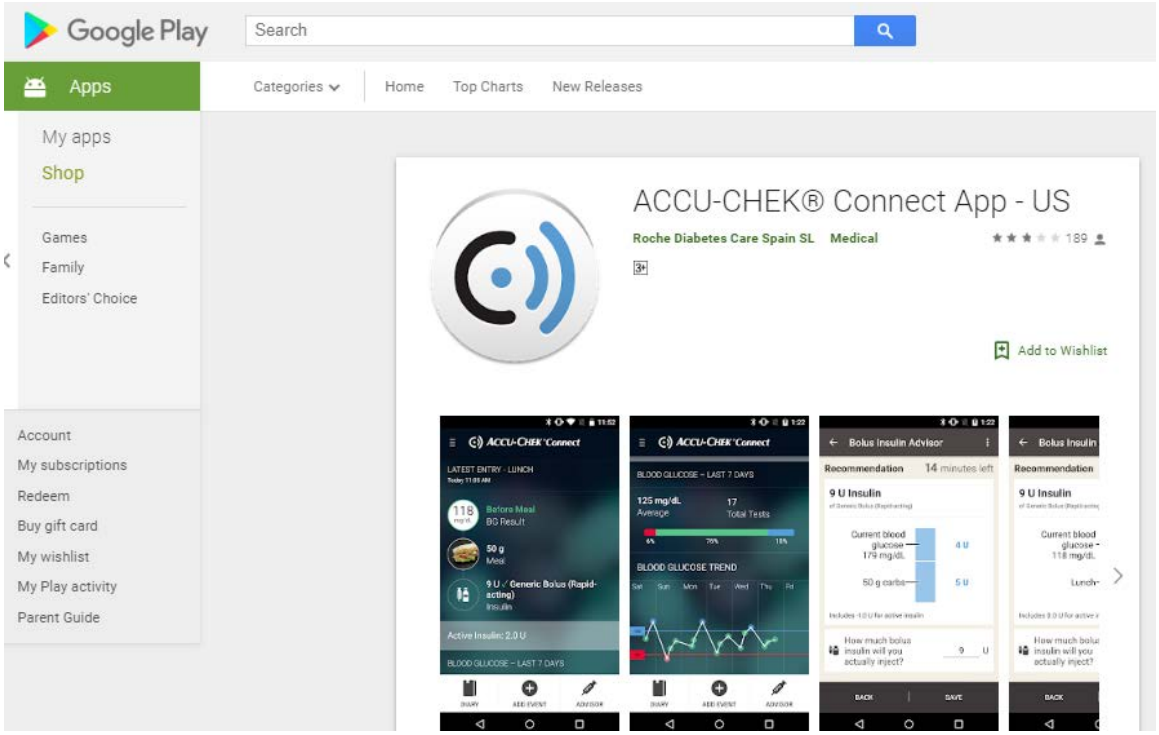


Figure 1. Roche has an app that monitors blood pressure, heartrate and irregular heartbeats

18. Roche sells, offers for sale in the United States, and imports into the United States, the program.

19. Roche's app satisfies claim element 7(a): "a first mobile station." For example, Roche's app works on a mobile device. *See* Figure 2.

Figure 2. Roche's app works on a mobile device.

20. Roche's app has a second mobile station. For example, Roche's app work on mobile devices that communicate with each other via Bluetooth V4.0 low energy. *See* Figure 2.

21. Roche's app satisfies claim element 7(b): "a second mobile station transmits a first request signal on a first sub-portion of the first portion of the RF band directly to the mobile station to request communications between the first mobile station and the second mobile station, establish, in response to receiving a first acknowledge signal from the second mobile station, a direct communication link between the first mobile station and the second mobile station on the first portion of the RF band, receive from the second mobile station a public encryption key generated using a private encryption key associated with the second mobile station, generate a message containing a common encryption key (Ckey)." For example, Roche's app selects a 2.4 GHz-2.4385 GHz range of the ISM band to carry communications between the mobile devices via

Bluetooth V4.0 low energy. *See* Figure 1.

22. Roche's app satisfies claim element 7(c): "encrypt the message using the public encryption key to generate an encrypted message, may decrypt the encrypted message using the private encryption key and extract the Ckey, wherein, messages exchanged between the first and second mobile stations are encrypted using the Ckey." For example, Roche's app allows for data to be shared between devices. *See* Figure 1.

23. Roche's app satisfies claim element 7(d): "wherein the second mobile station is configured to transmit, in response to receiving the first request signal from the first mobile station configured to select a first portion of a radio frequency band (RF) to carry communications between the first mobile station and the second mobile station." For example, Roche's app selects a 2.402 GHz range of the ISM band to carry communications between the mobile devices via Bluetooth V4.0 low energy. *See* Figure 1.

24. Roche's app satisfies claim element 7(e): "transmit a first request signal on a first sub-portion of the first portion of the RF band directly to the second mobile station to request communications between the first mobile station and the second mobile station, the first acknowledge signal on a second sub-portion of the first portion of the RF band directly to the first mobile station to acknowledge the first request signal." For example, Roche's app transmits a request signal on a double-sided spectrum with center frequency 2.402 GHz of the range of the ISM band directly to the mobile devices and establishes a direct communication link between the two mobile devices upon receiving a first acknowledgment signal from the second mobile station. *See* Figure 1.

25. **Induced Infringement**. Roche has also actively induced, and continues to

induce, the infringement of at least claim 7 of the ’095 Patent by actively inducing its customers, including merchants and end-users to use Roche’s program in an infringing manner as described above. Upon information and belief, Roche has specifically intended that its customers use its program in a manner that infringes at least claim 7 of the ’095 Patent by, at a minimum, providing access to, support for, training and instructions for, its program to its customers to enable them to infringe at least claim 7 of the ’095 Patent, as described above. Even where performance of the steps required to infringe at least claim 7 of the ’095 Patent is accomplished by Roche and Roche’s customer jointly, Roche’s actions have solely caused all of the steps to be performed.

26. Encoditech is entitled to recover damages adequate to compensate it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

27. Encoditech will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

JURY DEMAND

28. Under Rule 38(b) of the Federal Rules of Civil Procedure, Encoditech respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Encoditech asks this Court to enter judgment against Roche USA, Inc., granting the following relief:

A. A declaration that Roche has infringed the Patent-in-Suit;

B. A judgment that Roche accounts to Encoditech for all infringing activities and other conduct complained of herein;

C. An award of damages to compensate Encoditech for Roche's direct infringement of the Patent-in-Suit;

D. An order that Roche and its officers, directors, agents, servants, employees, successors, assigns, and all persons in active concert or participation with them, be permanently enjoined from infringing the Patent-in-Suit under 35 U.S.C. § 283;

E. A declaration that this case is exceptional, and an award to Encoditech of reasonable attorneys' fees, expenses and costs under 35 U.S.C. § 285;

F. An award of prejudgment and post-judgment interest; and

G. Such other and relief as this Court or jury may deem proper and just.

Date: September 25, 2018

Respectfully submitted,

/s/ Timothy Devlin

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