

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

HANDYLAB, INC.,	)	
	)	
Plaintiff,	)	Case No.
	)	
v.	)	
	)	<b>COMPLAINT FOR DECLARATORY</b>
CALIPER LIFE SCIENCES, INC.,	)	<b>AND OTHER RELIEF AND</b>
	)	<b>DEMAND FOR TRIAL BY JURY</b>
Defendant.	)	
_____	)	

Plaintiff HandyLab, Inc., by and through its undersigned attorneys, for its Complaint for declaratory and other relief against Defendant Caliper Life Sciences, Inc., states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff HandyLab, Inc. (“HandyLab”) is Delaware corporation with its principal place of business at 5230 South State Road, Ann Arbor, Michigan 48108.
2. On information and belief, Defendant Caliper Life Sciences, Inc. is a publicly traded Delaware corporation with its principal place of business and corporate offices at 68 Elm Street, Hopkinton, Massachusetts 01748, as well as operations in Alameda and Mountain View, California. Upon information and belief, Caliper has also done business as “Caliper Technologies Corp.”
3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331, 1338(a), and 2201 because the claims for declaratory relief alleged in this Complaint arise under the patent laws of the United States, 35 U.S.C. §1 *et. seq.*
4. This Court can enter the declaratory relief sought in this Complaint because this case presents an actual controversy within this Court’s jurisdiction. 28 U.S.C. §§2201, 2202.

5. Venue is proper in this Judicial District because: (1) upon information and belief, Defendant does business in this District, and (2) because a substantial part of the acts giving rise to this claim occurred in this District. 28 U.S.C. §1391(b)-(c).

**NATURE OF THE COMPLAINT**

6. In this action, HandyLab seeks the Court’s declaratory judgment that: (1) HandyLab and certain of its products do not infringe any claims of thirteen U.S. Patents asserted by Caliper (the “Asserted Patents”), or of any related patents; and/or (2) the claims of the Asserted Patents, or of any related patents, are invalid.

**GENERAL ALLEGATIONS**

7. HandyLab is in the business of developing and manufacturing nucleic acid extraction and microfluidic real-time PCR instruments and reagents. Generally, “PCR” refers to the “polymerase chain reaction”, a molecular biology technique used to amplify a single or few copies of a piece of DNA by several orders of magnitude, thereby generating many more copies of a particular DNA sequence.

8. HandyLab’s products and services for performing microfluidic real-time PCR include, among others, HandyLab’s Raider™ and Jaguar™ systems and related consumables, including without limitation, disposable microfluidic reaction cartridges (all collectively referred to herein as the “Products”). In HandyLab systems, amplified DNA sequences are detected in real time, resulting in the identification of organisms or conditions related to the presence or absence of the amplified DNA in a test sample.

9. By letter dated May 27, 2009, Defendant Caliper, through Dr. Stephane Mouradian, its Director of Business Development, wrote to HandyLab as follows:

“Caliper Life Sciences, Inc. has assembled a portfolio of over 350 issued US patents, and over 60 pending US patent applications, in the field of microfluidics. Many of these US patents have issued or pending foreign counterparts. It has come to our

attention that HandyLab, Inc. could benefit from a license to Caliper's microfluidic intellectual property in order to continue manufacturing, offering to sell, and selling HandyLab's Raider and Jaguar instrument systems and associated consumables.

As an example, I have attached a list of patents Caliper controls (i.e., owns or exclusively licenses) for your consideration.

Caliper wishes to resolve this situation as soon as possible. I have also enclosed a confidentiality agreement for your review to initiate this discussion.”

10. The list attached to Caliper’s May 27, 2009 letter to HandyLab identified thirteen U.S. Patents, as follows:

1. U.S. PATENT NO. 6,953,676 – “Mesoscale polynucleotide amplification device and method;”
2. U.S. PATENT NO. 7,297,313 – “Microfabricated reactor, process for manufacturing the reactor, and method of amplification;”
3. U.S. PATENT NO. 6,660,517 – “Mesoscale polynucleotide amplification devices;”
4. U.S. PATENT NO. 7,005,292 – “Device and method for the detection of an analyte utilizing mesoscale flow systems;”
5. U.S. PATENT NO. 6,551,841 - “Device and method for the detection of an analyte utilizing mesoscale flow systems;”
6. U.S. PATENT NO. 7,155,344 – “Distributed database for analytical instruments;”
7. U.S. PATENT NO. 7,343,248 -“Distributed database for analytical instruments;”
8. U.S. PATENT NO. 5,587,128 – “Mesoscale polynucleotide amplification devices;”
9. U.S. PATENT NO. 6,495,104 – “Indicator components for microfluidic systems;”
10. U.S. PATENT NO. 6,167,910 – “Multi-layer microfluidic devices;”
11. U.S. PATENT NO. 6,321,791 – “Multi-layer microfluidic devices;”

12. U.S. PATENT NO. 6,494,320 [sic] – “Golf bag stand” [fifth and sixth numbers transposed, is U.S. PATENT NO. 6,494,230 – “Multi-layer microfluidic devices;]” and

13. U.S. PATENT NO. 6,123,798 – ‘Methods of fabricating polymeric structures incorporating microscale fluidic elements.’”

These patents are referred to herein collectively as the “Asserted Patents” and copies of same are attached according to their respective exhibit numbers above.

11. On June 22, 2009, Caliper’s Dr. Mouradian wrote to HandyLab in relevant part that:

“...First, **Caliper does believe that certain of its microfluidic patents (including the 13 patents cited) read on Handylab's products or services.** Second, there may well be other Caliper patents beyond the 13 specifically cited in our letter that may apply to Handylab's products and services, but without further access to Handylab's instrument systems, we cannot be more specific at this time. In any event, subject to agreement on appropriate terms, in order to provide Handylab with freedom to operate, Caliper would be willing to license Handylab under its entire portfolio of microfluidic patents, not just the 13 cited in our letter...” [Emphasis added].

12. Upon information and belief, on or about May 27, 2009, Caliper sent a letter to Thermo Fisher Scientific Inc. of Waltham, Massachusetts, concerning “Thermo’s distribution of products made by HandyLab, Inc.” The Caliper letter to Thermo Fisher contained statements similar to Caliper’s May 27, 2009 letter to HandyLab and identified the same Asserted Patents.

13. Caliper has asserted rights under the Asserted Patents based on HandyLab’s Products and services and that a license from Caliper is necessary, and HandyLab denies that any of HandyLab’s Products infringe any valid claim of any of the Asserted Patents.

14. As a consequence of Caliper’s assertions of infringement, thereby interfering with directly and indirectly HandyLab’s business and attempts to obtain business, an actual

controversy presently exists between HandyLab and Caliper as to the invalidity and noninfringement of the Asserted Patents.

**COUNT I**

**(Declaratory Judgment of Noninfringement)**

15. HandyLab hereby incorporates and realleges Paragraphs 1 through 14 above as though fully set forth herein.

16. HandyLab is entitled to a declaratory judgment of this Court that claims of the Asserted Patents are not infringed by HandyLab, its Products, or the manufacture, use, sale, or offering for sale thereof.

**COUNT II**

**(Declaratory Judgment of Invalidity)**

17. Paragraphs 1-16 are incorporated by reference as if stated fully herein.

18. Each of the Asserted Patents is invalid because the alleged invention fails to satisfy the conditions for patentability specified in Title 35, United States Code, including §§ 102, 103 and/or 112 thereof.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff HandyLab, Inc. prays that this Court enter judgment as follows:

1. For a declaration of this Court that the Asserted Patents and each of their respective claims are invalid, unenforceable, and/or not infringed by Plaintiff;
2. For costs and reasonable attorneys' fees incurred in connection with this action under 35 U.S.C. §285; and
3. For such other and further relief as this Court may deem just and proper.

