

Read In Open Court 11/25/19 (NTD)

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

ROCHE DIAGNOSTICS CORPORATION,)
)
Plaintiff,)
v.)
)
MESO SCALE DIAGNOSTICS, LLC,)
)
Defendant.)

C.A. No. 17-189 (LPS) (CJB)

MESO SCALE DIAGNOSTICS, LLC,)
)
Counterclaim Plaintiff,)
v.)
)
ROCHE DIAGNOSTICS CORPORATION and)
BIOVERIS CORPORATION,)
)
Counterclaim Defendants.)

VERDICT FORM

U.S. PATENT NO. 6,808,939

1. Has Meso Scale proven by a preponderance of the evidence that it has an exclusive license to the entirety of claim 33 of the '939 patent under the "Research Program" provision (Section 2.1(A)) of Meso Scale's 1995 License Agreement with IGEN?

"Yes" indicates a finding for Meso Scale

"No" indicates a finding for Roche

Yes No

If you answered "Yes" to Question 1, GO ON to Question 2.

If you answered "No" to Question 1, SKIP Question 2 and GO ON to Question 3.

2. Has Meso Scale proven by a preponderance of the evidence that Roche infringed claim 33 of the '939 patent in violation of Meso Scale's exclusive license?

"Yes" indicates a finding for Meso Scale

"No" indicates a finding for Roche

Yes No

GO ON to Question 3.

U.S. PATENT NO. 5,935,779

3. Has Meso Scale proven by a preponderance of the evidence that it has an exclusive license to the entirety of claim 1 of the '779 patent under the "Research Program" provision (Section 2.1(A)) of Meso Scale's 1995 License Agreement with IGEN?

"Yes" indicates a finding for Meso Scale

"No" indicates a finding for Roche

Yes No

If you answered "Yes" to Question 3, GO ON to Question 4.

If you answered "No" to Question 3, SKIP Question 4 and GO ON to Question 5.

4. Has Meso Scale proven by a preponderance of the evidence that Roche induced infringement of claim 1 of the '779 patent in violation of Meso Scale's exclusive license?

"Yes" indicates a finding for Meso Scale

"No" indicates a finding for Roche

Yes No

GO ON to Question No. 5.

U.S. PATENT NO. 6,165,729

5. Has Meso Scale proven by a preponderance of the evidence that it has an exclusive license to the entirety of claims 38 and/or 44 of the '729 patent under the "Research Program" provision (Section 2.1(A)) of Meso Scale's 1995 License Agreement with IGEN?

"Yes" indicates a finding for Meso Scale

"No" indicates a finding for Roche

A. '729 patent claim 38:

Yes No

B. '729 patent claim 44:

Yes No

GO ON to Question 6

6. Has Meso Scale proven by a preponderance of the evidence that it has an exclusive license to the entirety of claims 38 and/or 44 of the '729 patent under the "Research Technologies" provision (Section 2.1(B)) of Meso Scale's 1995 License Agreement with IGEN?

"Yes" indicates a finding for Meso Scale

"No" indicates a finding for Roche

A. '729 patent claim 38:

Yes No

B. '729 patent claim 44:

Yes No

If you answered "Yes" to Question 5A, 6A, or both 5A and 6A, GO ON to Question 7A.

If you answered "Yes" to Question 5B, 6B, or both 5B and 6B, GO ON to Question 7.B.

Otherwise, GO ON to Question 8.

7. Has Meso Scale proven by a preponderance of the evidence that Roche induced infringement of claims 33 and/or 44 of the '729 patent in violation of Meso Scale's exclusive license?

"Yes" indicates a finding for Meso Scale

"No" indicates a finding for Roche

A. '729 patent claim 38:

Yes

No

B. '729 patent claim 44:

Yes

No

DAMAGES

If you have found that any claim is infringed (by answering “Yes” to any of Questions 2, 4, 7A, and/or 7B), then answer Question 8. If you have not found that any claim is infringed, then skip to CONCLUSION (page 6).

8. What amount has Meso Scale proved it is entitled to as a reasonable royalty for Roche’s infringement of the Asserted Patents?

Amount: \$ 137,250,000

WILLFULNESS

If you have found that any claim is infringed (by answering “Yes” to any of Questions 2, 4, 7A, and/or 7B), then answer Question 9. If you have not found that any claim is infringed, then skip to CONCLUSION (page 6).

9. Has Meso Scale proven by a preponderance of the evidence that Roche willfully infringed any of the asserted claims, in violation of Meso Scale’s exclusive license rights?

“Yes” indicates a finding for Meso Scale

“No” indicates a finding for Roche

Yes No

CONCLUSION

You have reached the end of the verdict form. Review the completed form to ensure that it accurately reflects your unanimous determinations. All jurors should then sign the verdict form in the space below and notify the Court Security Officer that you have reached a verdict. The Foreperson should retain possession of the verdict form and bring it to the courtroom with the jury.

Date 11/25/2019

REDACTED