

Read In Open Court 3/18/20 (VTD)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PACIFIC BIOSCIENCES OF
CALIFORNIA, INC.,

Plaintiff,

v.

OXFORD NANOPORE TECHNOLOGIES,
INC., and OXFORD NANOPORE
TECHNOLOGIES, LTD.,

Defendants.

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) C.A. No. 17-cv-275-LPS
) C.A. No. 17-cv-1353-LPS
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VERDICT FORM

Instructions: When answering the following questions and completing this Verdict Form, please follow the directions provided throughout the form. Your answer to each question must be unanimous. Please refer to the Jury Instructions for guidance on the law applicable to each question.

You should answer all of questions 1 to 22. Questions 23-25, about willfulness and damages, should only be answered if for any one or more of the patents you find that there is at least one asserted claim of that patent that is infringed and not invalid.

QUESTIONS AND ANSWERS

I. Infringement

A. U.S. Patent No. 9,546,400 (the “’400 Patent”)

1. Has plaintiff, Pacific Biosciences of California, Inc. (“PacBio”), proven by a preponderance of the evidence that defendants, Oxford Nanopore Technologies, Inc., and Oxford Nanopore Technologies, Ltd. (“Oxford”), directly infringed any of the following claims of the ’400 Patent?

For each asserted claim please check “Yes” or “No” below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	<u>✓</u>	_____
b. Claim 4	<u>✓</u>	_____
c. Claim 15	<u>✓</u>	_____

2. Has PacBio proven by a preponderance of the evidence that Oxford induced infringement of any of the following claims of the ’400 Patent?

For each asserted claim please check “Yes” or “No” below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	<u>✓</u>	_____
b. Claim 4	<u>✓</u>	_____
c. Claim 15	<u>✓</u>	_____

3. Has PacBio proven by a preponderance of the evidence that Oxford contributed to the infringement of any of the following claims of the '400 Patent?

For each asserted claim please check "Yes" or "No" below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	<u>✓</u>	_____
b. Claim 4	<u>✓</u>	_____
c. Claim 15	<u>✓</u>	_____

B. U.S. Patent No. 9,772,323 (the "323 Patent")

4. Has PacBio proven by a preponderance of the evidence that Oxford directly infringed any of the following claims of the '323 Patent?

For each asserted claim please check "Yes" or "No" below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	<u>✓</u>	_____
b. Claim 4	<u>✓</u>	_____
c. Claim 18	<u>✓</u>	_____

5. Has PacBio proven by a preponderance of the evidence that Oxford induced infringement of any of the following claims of the '323 Patent?

For each asserted claim please check "Yes" or "No" below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	<u>✓</u>	_____
b. Claim 4	<u>✓</u>	_____
c. Claim 18	<u>✓</u>	_____

6. Has PacBio proven by a preponderance of the evidence that Oxford contributed to the infringement of any of the following claims of the '323 Patent?

For each asserted claim please check "Yes" or "No" below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	<u>✓</u>	_____
b. Claim 4	<u>✓</u>	_____
c. Claim 18	<u>✓</u>	_____

C. U.S. Patent No. 9,678,056 (the “’056 Patent”)

7. Has PacBio proven by a preponderance of the evidence that Oxford directly infringed any of the following claims of the ’056 Patent?

For each asserted claim please check “Yes” or “No” below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	<u>✓</u>	_____
b. Claim 2	<u>✓</u>	_____
c. Claim 12	<u>✓</u>	_____

8. Has PacBio proven by a preponderance of the evidence that Oxford induced infringement of any of the following claims of the ’056 Patent?

For each asserted claim please check “Yes” or “No” below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	<u>✓</u>	_____
b. Claim 2	<u>✓</u>	_____
c. Claim 12	<u>✓</u>	_____

9. Has PacBio proven by a preponderance of the evidence that Oxford contributed to the infringement of any of the following claims of the '056 Patent?

For each asserted claim please check "Yes" or "No" below.

		Yes (PacBio)	No (Oxford)
a.	Claim 1	<u>✓</u>	_____
b.	Claim 2	<u>✓</u>	_____
c.	Claim 12	<u>✓</u>	_____

D. U.S. Patent No. 9,738,929 (the "929 Patent")

10. Has PacBio proven by a preponderance of the evidence that Oxford directly infringed any of the following claims of the '929 Patent?

For each asserted claim please check "Yes" or "No" below.

		Yes (PacBio)	No (Oxford)
a.	Claim 1	_____	<u>✓</u>
b.	Claim 2	_____	<u>✓</u>
c.	Claim 10	_____	<u>✓</u>

11. Has PacBio proven by a preponderance of the evidence that Oxford induced infringement of any of the following claims of the '929 Patent?

For each asserted claim please check "Yes" or "No" below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	_____	_____ ✓
b. Claim 2	_____	_____ ✓
c. Claim 10	_____	_____ ✓

12. Has PacBio proven by a preponderance of the evidence that Oxford contributed to the infringement of any of the following claims of the '929 Patent?

For each asserted claim please check "Yes" or "No" below.

	Yes (PacBio)	No (Oxford)
a. Claim 1	_____	_____ ✓
b. Claim 2	_____	_____ ✓
c. Claim 10	_____	_____ ✓

II. Invalidity

A. '400 Patent

Written Description

13. Has Oxford proven by clear and convincing evidence that any of the following claims of the '400 Patent are invalid because they lack adequate written description?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	_____	_____ ✓
b. Claim 4	_____	_____ ✓
c. Claim 15	_____	_____ ✓

Enablement

14. Has Oxford proven by clear and convincing evidence that any of the following claims of the '400 Patent are invalid because they are not enabled?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	_____ ✓	_____
b. Claim 4	_____ ✓	_____
c. Claim 15	_____ ✓	_____

B. '323 Patent

Written Description

15. Has Oxford proven by clear and convincing evidence that any of the following claims of the '323 Patent are invalid because they lack an adequate written description?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	_____	_____✓
b. Claim 4	_____	_____✓
c. Claim 18	_____	_____✓

Enablement

16. Has Oxford proven by clear and convincing evidence that any of the following claims of the '323 Patent are invalid because they are not enabled?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	_____✓	_____
b. Claim 4	_____✓	_____
c. Claim 18	_____✓	_____

C. '056 Patent

Written Description

17. Has Oxford proven by clear and convincing evidence that any of the following claims of the '056 Patent are invalid because they lack adequate written description?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Claim 2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Claim 12	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Enablement

18. Has Oxford proven by clear and convincing evidence that any of the following claims of the '056 Patent are invalid because they are not enabled?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Claim 2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Claim 12	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Indefiniteness

19. Has Oxford proven by clear and convincing evidence that any of the following claims of the '056 Patent are invalid because they are indefinite?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Claim 2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Claim 12	<input type="checkbox"/>	<input checked="" type="checkbox"/>

D. '929 Patent

Obviousness

20. Has Oxford proven by clear and convincing evidence that any of the following claims of the '929 Patent are invalid because the subject matter would have been obvious?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Claim 2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Claim 10	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Written Description

21. Has Oxford proven by clear and convincing evidence that any of the following claims of the '929 Patent are invalid because they lack adequate written description?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	_____	_____✓
b. Claim 2	_____	_____✓
c. Claim 10	_____	_____✓

Enablement

22. Has Oxford proven by clear and convincing evidence that any of the following claims of the '929 Patent are invalid because they are not enabled?

For each asserted claim please check "Yes" or "No" below.

	Yes (Oxford)	No (PacBio)
a. Claim 1	_____✓	_____
b. Claim 2	_____✓	_____
c. Claim 10	_____	_____✓

III. WILLFULNESS

Directions: If for any asserted claim(s) of the patents, you answered "Yes" as to any type of infringement and "No" as to invalidity for all questions that pertain to that particular asserted claim, please answer the question below.

23. Has PacBio proven by a preponderance of the evidence that Oxford willfully infringed any valid asserted claim?

Yes (PacBio)

No (Oxford)

IV. DAMAGES

Directions: If for any asserted claim(s) of the patents, you answered "Yes" as to any type of infringement and "No" as to invalidity for all questions that pertain to that particular asserted claim, please answer the questions below.

24. Has PacBio proven by a preponderance of the evidence that it is entitled to lost profits as a result of Oxford's infringement?

Yes (PacBio)

No (Oxford)

25. What damages has PacBio proven by a preponderance of the evidence that it is entitled to as a result of Oxford's infringement?

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UNANIMOUS VERDICT

UPON REACHING A UNANIMOUS VERDICT ON EACH QUESTION ABOVE,
EACH JUROR MUST SIGN BELOW.

We, the jury, unanimously agree to the answers to the above questions and return them
under the instructions of this Court as our verdict in this case.

March 18, 2020

REDACTED ✓ _____

REDACTED ✓ _____
