

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LABRADOR DIAGNOSTICS LLC,)
)
 Plaintiff,)
)
 v.) C.A. No. 20-348 (CFC)
)
 BIOFIRE DIAGNOSTICS, LLC and)
 BIOMERIEUX S.A.,)
)
 Defendants.)

NOTICE OF DISMISSAL WITHOUT PREJUDICE

The complaint in this action was filed by Labrador Diagnostics LLC (“Labrador”) on March 9, 2020 to address infringing use of Labrador’s patented diagnostic testing technology over the previous six years by defendant bioMérieux S.A. (“bioMérieux”) and BioFire Diagnostics, LLC (“BioFire”). Two days after the complaint was filed, bioMérieux issued a press release announcing that the defendants were working on at least one test directed to SARS CoV-2, the virus that causes COVID-19, to be run on BioFire’s existing FilmArray 2.0 and FilmArray Torch testing platforms.

Labrador had no prior knowledge of these activities by the defendants. When Labrador saw the press release, it sent a letter to the defendants offering to grant them royalty-free licenses to Labrador’s patented technology during the pandemic. And after it offered those royalty-free licenses to the defendants, Labrador issued a press release announcing that it was extending the same offer to the public at large.

Defendants bioMérieux and BioFire declined Labrador’s offer.

This lawsuit was never about COVID-19. There is no mention of COVID-19 or SARS-CoV-2 anywhere in the complaint. The lawsuit was based on the defendants' past infringement.

Nevertheless, in view of the ongoing COVID-19 pandemic, and as requested by the defendants, Labrador is dismissing the complaint to allow the defendants to focus their resources on combating the coronavirus and addressing the public health crisis. Labrador continues to fully support all efforts directed to addressing the present international COVID-19 pandemic and continues to hope that more tests will be created, disseminated, and used to quickly and effectively protect our communities here and throughout the world.

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A), Labrador Diagnostics LLC hereby dismisses this case without prejudice.

FARNAN LLP

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