UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ABS GLOBAL, INC.,
Petitioner,

v.

CYTONOME/ST, LLC,
Patent Owner.

Case No. IPR2017-02184
Patent No. 7,208,265

SUPPLEMENTAL DECLARATION OF DR. MARVIN M. PACE

I. INTRODUCTION

1. I have been retained by counsel for ABS Global, Inc. ("ABS) as an expert witness in the above-captioned proceeding. In this supplemental declaration, I have been asked to verify the authenticity of an exhibit filed in this proceeding that was objected to by Cytonome/ST, LLC, and various copies of the same underlying document.

2. **Exhibit 1007** as filed is a true and correct copy of Fugger et al., "Births of normal daughters after MicroSort sperm separation and intrauterine insemination, in-vitro fertilization, or intracytoplasmic sperm injection," Human Reproduction 13(9):2367-2370 (Sept. 1998) ("Fugger 1998"), and bears a library date stamp of **September 24, 1998**. Fugger 1998 was published in the journal Human Reproduction, which was in September 1998 and remains today a well-respected, peer-reviewed journal published monthly by Oxford University Press. I refer to Fugger 1998 in my expert declaration, filed in this proceeding as **Exhibit 1003**.

3. Fugger 1998 was available from a number of libraries at or around the time of its publication in September 1998. **Exhibits 1035–1039** are copies of Fugger 1998 obtained from various libraries. I compared each of these copies of Fugger 1998 with Exhibit 1007. As discussed below, nothing about Exhibit 1007 creates as suspicion as to its authenticity.

4. I first compared Exhibit 1007 with **Exhibit 1035**. Exhibit 1035 is a true and correct copy of Fugger 1998 obtained from the University of Minnesota's Bio-Medical Library. Other than the library stamp, which bears a date of **September 22, 1998**, and the addition of page numbers and an exhibit label to the bottom of the document, there are no differences between Exhibit 1007 and Exhibit 1035. Based on my experience and review of the document, this library is a place where an authentic copy of Fugger 1998 would be kept. Nothing about Exhibit 1035's condition creates a suspicion about its authenticity.

5. I also compared Exhibit 1007 with **Exhibit 1036**. Exhibit 1036 is a true and correct copy of Fugger 1998 obtained from the Iowa State University of Science & Technology library. Other than the library stamp, which bears a date of **September 23, 1998,** the absence of a copy of the journal's front cover, and the addition of page numbers and an exhibit label to the bottom of the document, there are no differences between Exhibit 1007 and Exhibit 1036. Based on my experience and review of the document, this library is a place where an authentic copy of Fugger 1998 would be kept. Nothing about Exhibit 1036's condition creates a suspicion about its authenticity.

6. I also compared Exhibit 1007 with **Exhibit 1037**. Exhibit 1037 is a true and correct copy of Fugger 1998 obtained from the University of Missouri Health Sciences library. Other than the library stamp, which bears a date of

September 24, 1998, and the addition of page numbers and an exhibit label to the bottom of the document, there are no differences between Exhibit 1007 and Exhibit 1037. Based on my experience and review of the document, this library is a place where an authentic copy of Fugger 1998 would be kept.

7. The authenticity of Exhibit 1037 is further corroborated by the Declaration of Deborah Ward and the copy of Fugger 1998 attached to it as Exhibit A (collectively, **Exhibit 1041**). I compared Exhibit 1037 to Exhibit A of Exhibit 1041. Other than the exhibit labels on the bottom of the document, there are no differences between Exhibit 1037 and Exhibit A to Exhibit 1041. Nothing about Exhibit 1037's condition creates a suspicion about its authenticity.

8. I also compared Exhibit 1007 with **Exhibit 1038**. Exhibit 1038 is a true and correct copy of Fugger 1998 obtained from the University of Iowa library. Other than the library stamp, which bears a date of **September 25, 1998**, and the addition of page numbers and an exhibit label to the bottom of the document, there are no differences between Exhibit 1007 and Exhibit 1038. Based on my experience and review of the document, this library is a place where an authentic copy of Fugger 1998 would be kept. Nothing about Exhibit 1038's condition creates a suspicion about its authenticity.

9. I also compared Exhibit 1007 with **Exhibit 1039**. Exhibit 1039 is a true and correct copy of Fugger 1998 obtained from the British Library. Other

than the library stamp, which bears a date of **September 21, 1998**, and the addition of page numbers and an exhibit label to the bottom of the document, there are no differences between Exhibit 1007 and Exhibit 1039. Based on my experience and review of the document, this library is a place where an authentic copy of Fugger 1998 would be kept. Nothing about Exhibit 1039's condition creates a suspicion about its authenticity.

10. Finally, I compared Exhibit 1007 with **Exhibit 1040**, which is the copy of Fugger 1998 filed as Exhibit 1007 in IPR2014-01550. Exhibit 1040 is a true and correct copy of Fugger 1998. I referred to Exhibit 1040 in my expert declaration in IPR2014-01550, filed in that proceeding as Exhibit 1003. Other than the exhibit labels on the bottom of the document, there are no differences between Exhibit 1007 and Exhibit 1040. Nothing about Exhibit 1040's condition creates a suspicion about its authenticity.

11. In sum, there are no material differences between Exhibit 1007, Exhibit 1035, Exhibit 1036, Exhibit 1037, Exhibit 1038, Exhibit 1039, Exhibit 1040, and Exhibit A to Exhibit 1041. Each is a true and correct copy of Fugger 1998 as it was published in Human Reproduction in September 1998, and nothing about any of these exhibits creates a suspicion about its authenticity. Based on my own experience and my review of the documents, Fugger 1998 was published and publicly accessible in September 1998.

12. I also compared the text of Exhibit 1007 with the text of Exhibit 1042, which is a true and correct copy of Fugger 1998 as it was submitted to the United States Patent Office during the prosecution of U.S. Application No. 13/752,082 on July 9, 2013. Based on my review of these documents, there are no differences between the text of Exhibit 1007 and the text of Exhibit 1042.

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I, Marvin Pace, do hereby declare and state, that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, under Section 1001 of Title 18 of the United States Code.

Executed on: May 7, 2018

Dr. Mavin M. Pace