UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ASSOCIATION FOR MOLECULAR PATHOLOGY;
AMERICAN COLLEGE OF MEDICAL GENETICS;
AMERICAN SOCIETY FOR CLINICAL PATHOLOGY;
COLLEGE OF AMERICAN PATHOLOGISTS;
HAIG KAZAZIAN, MD; ARUPA GANGULY, PhD;
WENDY CHUNG, MD, PhD; HARRY OSTRER, MD;
DAVID LEDBETTER, PhD; STEPHEN WARREN, PhD;
ELLEN MATLOFF, M.S.; ELSA REICH, M.S.;
BREAST CANCER ACTION; BOSTON WOMEN'S
HEALTH BOOK COLLECTIVE; LISBETH CERIANI;
RUNI LIMARY; GENAE GIRARD; PATRICE FORTUNE;
VICKY THOMASON; KATHLEEN RAKER,   09 Civ. 4515 (RWS)

                                  Plaintiffs,

                    v.   ECF Case

UNITED STATES PATENT AND TRADEMARK
OFFICE; MYRIAD GENETICS; LORRIS BETZ,   DECLARATION OF
ROGER BOYER, JACK BRITTAIN, ARNOLD B.   THOMAS B. KEPLER
COMBE, RAYMOND GESTELAND, JAMES U.
JENSEN, JOHN KENDALL MORRIS, THOMAS PARKS,
DAVID W. PERSHING, and MICHAEL K. YOUNG,
in their official capacity as Directors of the University
of Utah Research Foundation,

                                  Defendants.

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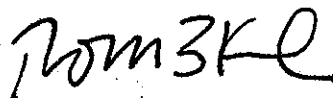
1. I am a Professor in the department of Biostatistics and Bioinformatics at Duke University Medical Center. My research includes the computational analysis of genes and genomes, as well as other topics in computational biology. A copy of my current *curriculum vitae* is attached.

2. My co-authors and I wrote a paper on Claim 5 of the '282 patent, translating its form into a computational algorithm that was also empirically tested against DNA sequence data. That paper is attached as Exhibit 2. It has been submitted for publication. Our method of analysis is widely recognized by experts in the fields of bioinformatics, computational biology, genetics, and genome sciences. Our conclusions are fully supported by the data.

3. My co-author, Robert Cook-Deegan, circulated copies of the paper to counsel for all of the parties in this case on December 22, 2009.

I declare pursuant to 28 U.S.C. §1746, under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Thomas B. Kepler

Executed this 6th day of
January, 2010

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