

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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THIRD WAVE TECHNOLOGIES, INC.,

Plaintiff,

v.

STRATAGENE CORPORATION,

Defendant.  
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ORDER

04-C-0680-C

Having reviewed plaintiff Third Wave Technologies, Inc.'s motion for entry of permanent injunction, I am prepared to enter a permanent injunction in the form posed by plaintiff with one exception. I will modify the proposed injunction to allow defendant Stratagene Corporation to delay destruction of any accused products currently in stock pending a resolution of defendant's appeal.

In all other respects, I will adopt the terms of the permanent injunction proposed by plaintiff. I am not persuaded by defendant's argument that the proposed injunction is overbroad; it is disingenuous for defendant to assert that the use of its products could be used in a non-infringing way when there is no motivation for anyone to use them in that

manner.

As to defendant's assertion that it is free to make and sell the products in the United States for use in a foreign country, defendant is in error unless it intends to manufacture and test its products wholly outside the United States. Performing quality control and testing procedures would necessarily infringe plaintiff's patent.

ORDER

Accordingly, IT IS ORDERED that plaintiff's proposed motion for permanent injunction will be entered as modified.

Entered this 27th day of September, 2005.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge