

10x Genomics: Protect the Platform or Trade for Certainty?

Internal ID: S&F-STR-003

Topic: Platform Strategy, Risk Management, Capital Allocation

Industry: Life Sciences Tools & Services

Source: Strategy & Finance

Publication date: 5 October 2026

License: Not specified

Student case • Information cutoff: 1 March 2023

On 28 February 2023, a federal court in Delaware issued a claim-construction order in a patent case brought by 10x Genomics and Prognosys Biosciences against NanoString Technologies. The order adopted plain-and-ordinary-meaning constructions for several disputed terms and rejected a number of additional limitations proposed by NanoString. It did not decide whether GeoMx infringed, whether any patent was valid, or whether either plaintiff would obtain damages or an injunction. Trial was scheduled for November 2023. The court also required a report on scheduling and the history and current status of settlement discussions, due 14 March, and set a status hearing for 21 March. [J01, pp. 5-23; C01, Item 3, printed pp. 63-64; C02, Item 3, printed pp. 50-51; sources and direct links in the research source register.]

The order offers a procedural milestone, not a verdict. For 10x, the question is how to protect its technology and commercial position while facing legal uncertainty, reciprocal patent claims, and an important unknown: the public record does not reveal how 10x and its co-plaintiff, Prognosys, allocated litigation control, costs, or any recovery.

The decision

For this classroom exercise, assume you are a **hypothetical 10x strategy executive preparing a recommendation for 10x's leadership**. You are not counsel, a party with established settlement authority, or a representative of Prognosys. The actual co-plaintiff agreement and the parties' decision rights have not been established in the reviewed public record. Your recommendation should identify what must be agreed with Prognosys before 10x could act.

As of 1 March 2023, what posture should 10x recommend in the Delaware GeoMx action?

1. **Continue litigation toward adjudication**, confirm which claims remain live under the operative pleadings, and prepare for the scheduled trial.
2. **Prioritize negotiated resolution**, exploring a license, cross-license, or other settlement while assessing its effect on both sides' product and patent positions.
3. **Use a conditional dual-track approach**, continuing trial preparation while testing whether a negotiated resolution meets defined conditions or milestones.

No settlement offer, proposed license, agreed negotiating mandate, or management preference is reported in the reviewed sources. Any payment, royalty, release, product scope, territory, or other term you discuss is a hypothetical negotiating construct, not a known proposal.

The companies and their positions

10x sells instruments, consumables, and services for biological research. For FY2022, it reported \$516.409 million of consolidated revenue: \$72.396 million from instruments, \$435.588 million from consumables, and \$8.425 million from services. It describes recurring consumable sales as part of its business model and says multiple consumables are designed to work with its instruments. These are global, company-wide figures; 10x did not disclose GeoMx-related revenue, spatial-product margins, or U.S. sales exposed to this dispute. The company reported 4,630 cumulative instruments sold across Chromium, Visium, and Xenium families, along with \$430.0 million in cash, cash equivalents, and marketable securities at year-end. The instrument figure is not a GeoMx or spatial installed-base measure. [C01, Item 1, "Cumulative instruments sold," HTML lines 2123-30; Note 2, "Revenue by source," lines 3226-34; MD&A, printed p. 85.]

NanoString's FY2022 filing described its CosMx SMI consumables as launched in December 2022. NanoString reported \$127.262 million in total FY2022 revenue, but did not disclose GeoMx or CosMx product-level revenue in the cited filing. NanoString's product descriptions are its own claims, not an independent performance comparison. [C02, Item 1, printed p. 11 / HTML lines 433-45; consolidated statements, printed p. 72 / HTML lines 2171-78.]

The legal positions are contested. NanoString stated it did not believe it infringed the asserted rights and intended to defend the case. It also asserted that 10x's Visium products infringed NanoString patents. 10x characterized NanoString's Visium claim as meritless and said it would defend itself. These are party positions, not court findings. The court's claim constructions did not determine infringement or validity. [C01, Item 3, printed pp. 64-65; C02, Item 3 and Note 14; J01, pp. 5-22.]

What the court did-and did not-decide

The 28 February order lists eight patents: 10,472,669; 10,662,467; 10,961,566; 10,983,113; 10,996,219; 11,001,878; 11,008,607; and 11,293,917. It separately says that **seven claim terms** were disputed. The counts describe different things. The patent set itself is unresolved in the sources reviewed: 10x's FY2022 filing says its 4 May 2022 amended complaint added patent 11,293,917 and withdrew its infringement claim on 10,662,467; NanoString's filing describes seven asserted patents as owned by Prognosys and omits 10,662,467; the court's order includes both patents in its eight-patent list. The operative amended complaint was not retrieved. Do not assume a definitive live patent set or ownership allocation from these inconsistent accounts. [J01, p. 1; C01, Item 3, printed pp. 63-64 / HTML lines 1738-40; C02, Item 3, printed pp. 50-51 / HTML lines 1522-27.]

For several terms-including probe delivery, "generating," reagent delivery, nucleotide sequence, and removal-the court adopted plain-and-ordinary-meaning constructions. It rejected proposed added limitations concerning probe immobilization or spatial pattern, sequence encoding of location, and removal by elution or en masse. For "processing circuit arrangement" in claim 1 of the '917 patent, the court declined to address NanoString's indefiniteness argument at claim construction, stating that the invalidity issue was better handled on summary judgment. This was not a holding that the term was indefinite or that the patent was valid. The order did not decide infringement, validity, damages, injunctive relief, or the ultimate outcome. [J01, pp. 5-22.]

Both companies' FY2022 filings said trial was scheduled for November 2023. A scheduled date is not a forecast that trial would occur then. The court's order stated that a joint report on scheduling and the history and current status of settlement discussions was due 14 March and set a 21 March status hearing; it disclosed no discussion details or terms. [C01, Item 3, printed pp. 63-64; C02, Item 3, printed pp. 50-51; J01, pp. 22-23.]

Decision context

Strategic exposure

The dispute concerns the GeoMx platform, while 10x describes a broader instrument-and-consumables model. That can make control over technology and future product freedom strategically important. However, the public company-wide revenue totals do not show the amount of GeoMx-related revenue, the products implicated by any particular claim, or the economic value of a remedy. NanoString's CosMx launch adds a recently launched competing platform to the context, but the sources do not establish its market acceptance, technical performance, or relationship to any infringement finding. [C01, Item 1 and Note 2; C02, Item 1, printed p. 11.]

Reciprocal exposure

Each side faces patent exposure in the broader relationship. 10x disclosed NanoString's reciprocal Visium claims and a separate Vizgen dispute; NanoString said it intended to defend against the GeoMx allegations. The reviewed materials do not quantify the costs, merits, or outcomes of these matters, nor establish whether they could be included in a negotiated package. Keep the decision centered on the Delaware GeoMx action. [C01, Item 3, printed pp. 64-65; C02, Item 3 and Note 14.]

Costs and available resources

10x warned investors that patent litigation may be expensive and time-consuming, may fail to produce an injunction, and may distract management; it also said expense and distraction could outweigh benefits. Those disclosures identify risks, not this case's expected legal bill or probability of success. 10x's cash and consolidated financials provide general context but do not reveal the budget or decision threshold for this action. No case-specific legal-cost estimate, product contribution margin, or GeoMx sales exposure appears in the reviewed record. [C01, risk factors, printed pp. 52-53 and 63; MD&A, printed p. 85.]

Evidence for thinking about litigation

Three studies provide mechanisms to consider; none estimates 10x's legal odds, settlement value, or return.

Study	Setting and finding	Limitation for this decision
Somaya (2003)	Historical U.S. computer and research-medicine patent suits. A patentee-stake measure was positively associated with adjudication in several specifications.	The outcomes are case-stage measures, not a current trial probability or litigation return; the evidence is old, selected, and observational. [L01, Tables 4-6, pp. 31-34.]
Galasso and Schankerman (2015)	Federal Circuit patent-validity cases; invalidation was associated with later external patent citations, a measure of follow-on patented activity.	Citations are not sales or welfare. The study does not compare trial with licensing or forecast an effect for spatial biology. [L02, Table 4, PDF p. 47; discussion, pp. 27-28.]
Study	Setting and finding	Limitation for this decision
Kafouros, Aliyev, and Krammer (2021)	Historical U.S. IT-equipment firms; the Table 3a model predicts different return-on-sales results by intangible-asset intensity when	These are inverse-hyperbolic-sine-transformed model predictions with other covariates held at their means, not

Study	Setting and finding	Limitation for this decision
	litigation intensity moves from the median to the 99th percentile.	observed returns, the return to one lawsuit, or a TXG forecast. [L03, Table 3a, PDF p. 47 / article p. 23.]

Full citations, source versions, locators, and reading-depth notes are in the 10x Genomics source register. Company-specific evidence and financial gaps are catalogued in the evidence extraction.

Your recommendation

Prepare a short recommendation to 10x leadership. State which posture you favor, what evidence supports it, and what could change your view. Name the minimum information and authority gate you would require before 10x commits to material incremental litigation spend or adopts a settlement posture, including what must be resolved with Prognosys. Address:

- the distinction between what the court held and what remains alleged or unresolved;
- the unresolved patent set and the need to establish 10x-Prognosys decision rights, cost sharing, and recovery allocation;
- strategic value, reciprocal exposure, timing, management attention, and the limits of available financial data;
- the conditions or evidence that would make your preferred route preferable to the alternatives.

You may use scenarios, but label every assumed probability, legal cost, product revenue, margin, license payment, royalty, and other financial input as **hypothetical**. Do not convert company-wide revenue or academic-study estimates into case-specific values. The record supports more than one defensible recommendation.