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Attorneys for Defendants and Counterclaimants Roche Molecular Systems, Inc.; Roche Diagnostics Corporation; and Roche Diagnostics Operations, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY,

Plaintiff,

vs.

ROCHE MOLECULAR SYSTEMS, INC.; ROCHE DIAGNOSTICS CORPORATION; ROCHE DIAGNOSTICS OPERATIONS, INC.;

Defendants.

ROCHE MOLECULAR SYSTEMS, INC. ROCHE DIAGNOSTICS CORPORATION; ROCHE DIAGNOSTICS OPERATIONS, INC.,

Counterclaimants,

vs.

THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY; THOMAS MERIGAN; AND MARK HOLODNIY;

Counterclaim Defendants.

CASE NO. C-05-04158 MHP

DECLARATION OF RHEA NERSESIAN IN SUPPORT OF ROCHE'S OPPOSITION TO COUNTERCLAIM DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Declaration of Rhea Nersesian

I, Rhea Nersesian, declare:

1. I have personal knowledge of the facts stated herein. If called upon to testify I could, and would, testify competently thereto.

2. I am currently a patent agent in the legal department of Roche Molecular Systems, Inc. I have previously submitted a declaration in support of Roche's Motion for Summary Judgment.

3. Roche's Amplicor HIV-1 Monitor v.1.0 kit ("Monitor kit") was first sold to the public on June 25, 1996. Attached hereto as Exhibit A is a printout identifying the customers who were shipped the Monitor kit on that day, including, on page 3, Stanford University Hospital.

4. The Food and Drug Administration ("FDA") permitted Roche to use data from research collaborations as well as data from drug trials in support of its application for FDA approval of the Monitor kit. These studies were done with a prototype of the Monitor kit.

5. Attached hereto as Exhibit B are relevant pages from Roche's submission to the FDA seeking approval of the Monitor kit. The attached pages indicate that Stanford University's Dr. Thomas Merigan was the principal investigator on one of the trials that supported Roche's application.

6. Roche requested FDA approval of the Monitor kit on November 3, 1995.

7. The FDA approved the Monitor kit for sale on June 3, 1996.

8. Attached hereto as Exhibit C is a copy of a letter dated March 19, 2003 from Stanford University's Luis Mejia to Roche Molecular Systems CEO, Heiner Dreismann.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on November 15, 2006, in Alameda, California.

Rhea Nersesian