

# EXHIBIT 12

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THE BOARD OF TRUSTEES OF THE  
LELAND STANFORD JUNIOR  
UNIVERSITY

Plaintiff

vs

No. C-05-04158-MHP

ROCHE MOLECULAR SYSTEMS, ET AL

Defendants

ORIGINAL

AND RELATED COUNTERCLAIMS

HEAVILY CONFIDENTIAL - ATTORNEYS EYES ONLY  
VIDEOTAPE DEPOSITION OF FREDERICK G. KENZ, III  
Redwood Shores, California  
Tuesday, July 25, 2006

Reported by  
TRACY L. PERRY  
CSR No. 9577  
JOB No. 3-50471

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UNITED STATES DISTRICT COURT  
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THE BOARD OF TRUSTEES OF THE  
LELAND STANFORD JUNIOR  
UNIVERSITY,

Plaintiff,

vs.

No. C 05 04158 MHP

ROCHE MOLECULAR SYSTEMS, ET AL.,

Defendants.

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AND RELATED COUNTERCLAIMS.

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Confidential Videotaped Deposition of FREDERICK  
C. KENTZ, III, taken on behalf of Plaintiff and  
Counterclaim Defendant, at 555 Twin Dolphin Drive,  
Suite 560, Redwood Shores, California, beginning at  
10:03 a.m. and ending at 12:22 p.m., on Tuesday, July 25,  
2006, before TRACY L. PERRY, Certified Shorthand Reporter  
No. 9577.

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1 APPEARANCES:

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There also being present:

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Rhea Neresian

Ray Tyler, Videographer

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1 that might be related to the PCR business?

10:38:32 2 MR. BOOZELL: Objection; vague and ambiguous.

10:38:34 3 THE WITNESS: Yeah, you're going to have to repeat  
4 that one.

10:38:36 5 BY MR. RODRIGUEZ:

10:38:36 6 Q Is it the case that you relied solely on Cetus  
7 to identify contracts that Cetus had that would be  
8 related to the PCR business?

10:38:51 9 MR. BOOZELL: Objection; vague and ambiguous.

10:38:52 10 THE WITNESS: I'm having a little trouble with it,  
11 but I'll...

10:38:54 12 BY MR. RODRIGUEZ:

10:38:54 13 Q Yeah, I guess what I'm trying to get at is, did  
14 you send your own folks over there to review any  
15 documents? Did they send over a large amount of  
16 documents for you to then decide which ones related to  
17 PCR business?

10:39:07 18 So let me just reask the question.

10:39:09 19 What was the process by which Cetus provided to  
20 you information regarding the contracts with third  
21 parties that related to the PCR business?

10:39:22 22 MR. BOOZELL: Objection; vague and ambiguous and  
23 lacks foundation. Do you -- when you say "you," are you  
24 referring to Roche or Mr. Kentz personally?

10:39:33 25 MR. RODRIGUEZ: Either or both.

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10:39:37 1 MR. BOOZELL: You can go ahead and answer if you  
2 can.

10:39:41 3 THE WITNESS: You make it tough for me on these  
4 questions. The -- the -- I'll just give you the process.

10:39:47 5 They would go look for the materials. We did  
6 not go into their buildings and their file -- we would  
7 not search their file cabinets. They would have to  
8 produce the materials to us. And they prepared the  
9 schedule of documents that they were producing to us. We  
10 would not go -- again, go searching for that.

10:40:08 11 And I do recall them saying -- I recall them  
12 saying, you know, "We're doing our best to find  
13 everything, but we would take care of it in the  
14 agreement," saying that they are transferring everything.  
15 Even if it wasn't on the schedule, they are transferring  
16 everything, because they were not really keeping anything  
17 associated with the PCR. The intent was to get it -- to  
18 turn everything over to us. And it was in their interest  
19 to turn it over and make us successful because if we were  
20 successful, we were paying them more money in a royalty,  
21 et cetera, over time. So they wanted us to be  
22 successful.

10:40:40 23 So we believed it when they said, "We're doing a  
24 good faith search for this information and we're putting  
25 a list together, but we're also saying in the agreement

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1 we're transferring everything that we have, even if it's  
2 not on the list."

10:40:56 3 BY MR. RODRIGUEZ:

10:40:56 4 Q And so in connection with the -- the  
5 negotiations and discussions that you had with Cetus, did  
6 you discuss with them -- and let me actually rephrase the  
7 question to address Mr. Boozell's point about you versus  
8 Roche.

10:41:13 9 In connection with the meetings that you were  
10 involved in with Cetus, do you recall discussion  
11 regarding how the asset purchase agreement would provide  
12 for the transfer of PCR-related inventions or information  
13 that were not specifically -- that was not specifically  
14 enumerated in the schedules or in the contract?

10:41:45 15 MR. BOOZELL: Objection; vague and ambiguous and  
16 compound and really long.

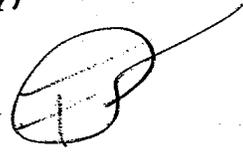
10:41:53 17 THE WITNESS: My recollection in those negotiations  
18 was that they would say through a rep and warranty, they  
19 would promise that they were turning over everything.  
20 But you'd have to look at the agreement. I mean, you  
21 know, the agreement is a very big agreement and we'd have  
22 to look at all the sections, but in a general way they  
23 were promising that they were turning everything over and  
24 we expected something in the agreement like a rep that  
25 said that.

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I, FREDERICK C. KENTZ III, do hereby declare under penalty of perjury that I have read the foregoing transcript of my deposition; that I have made such corrections as noted herein, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this 28 day of August,  
ND 2006, at Nalley,  
\_\_\_\_\_  
(City) (State)



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FREDERICK C. KENTZ III