

1 COOLEY GODWARD KRONISH LLP  
2 STEPHEN C. NEAL (No. 170085) (nealsc@cooley.com)  
3 RICARDO RODRIGUEZ (No. 173003) (rr@cooley.com)  
4 MICHELLE S. RHYU (No. 212922) (mrhyu@cooley.com)  
5 Five Palo Alto Square  
6 3000 El Camino Real  
7 Palo Alto, CA 94306-2155  
8 Tel: (650) 843-5000  
9 Fax: (650) 857-0663

10 6 Attorneys for Plaintiff and Counterclaim Defendant,  
11 THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR  
12 UNIVERSITY and Counterclaim Defendants THOMAS MERIGAN and MARK  
13 HOLODNIY

14 8 PRUETZ LAW GROUP LLP  
15 9 Adrian M. Pruetz (Bar No. 118215) (ampruetz@pruetzlaw.com)  
16 10 1600 Rosecrans Avenue, 4th Floor  
17 11 Manhattan Beach, CA 90266  
18 Telephone: (310) 321-7640  
19 Facsimile: (310) 321-7641

20 12 QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP  
21 13 Jeffrey N. Boozell (Bar No. 199507) (jeffboozell@quinnmanuel.com)  
22 14 865 South Figueroa Street, 10th Floor  
23 15 Los Angeles, California 90017-2543  
24 Telephone: (213) 443-3000  
25 Facsimile: (213) 443-3100

26 15 Robert W. Stone (Bar No. 163513) (robertstone@quinnmanuel.com)  
27 16 Brian C. Cannon (Bar No. 193071) (briancannon@quinnmanuel.com)  
28 17 Tun-Jen Chiang (Bar No. 235165) (tjchiang@quinnmanuel.com)  
18 555 Twin Dolphin Drive, Suite 560  
19 Redwood Shores, California 94065  
20 Telephone: (650) 801-5000  
21 Facsimile: (650) 801-5100

22 19 Attorneys for Defendants and Counterclaimants Roche Molecular Systems, Inc.;  
23 20 Roche Diagnostics Corporation; and Roche Diagnostics Operations, Inc.

24 21 UNITED STATES DISTRICT COURT  
25 22 NORTHERN DISTRICT OF CALIFORNIA

26 24 THE BOARD OF TRUSTEES OF THE  
27 25 LELAND STANFORD JUNIOR  
28 26 UNIVERSITY,

27 Plaintiff,  
28 v.

Case No. C 05 04158 MHP

**JOINT SUPPLEMENTAL CASE  
MANAGEMENT STATEMENT**

Date: March 19, 2007  
Time: 3:00 PM  
Place: Courtroom 15, 18<sup>th</sup> Floor

1 ROCHE MOLECULAR SYSTEMS, ET AL.,  
2 Defendants.

3  
4 Hon. Marilyn Hall Patel

5 ROCHE MOLECULAR SYSTEMS, ET AL.,  
6 Counterclaimants,  
7 v.

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

10 Counterclaim Defendants.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Plaintiff and Counterdefendant the Board of Trustees of the Leland Stanford Junior  
 2 University (“Stanford”), Counterdefendants Thomas Merigan, M.D. (“Dr. Merigan”), and Mark  
 3 Holodniy, M.D. (“Dr. Holodniy”), and Defendants and Counterclaimants Roche Molecular  
 4 Systems, Roche Diagnostics Corporation, and Roche Diagnostics Operations, Inc. (collectively  
 5 “Roche”) jointly submit this Supplemental Case Management Statement.

6 **OVERVIEW AND STATUS**

7 For the basic background, the parties incorporate by reference the prior CMC statements.  
 8 This Court bifurcated the case upon Roche’s request to first address ownership issues. This first  
 9 phase of the case culminated in summary judgment motions, which the Court has decided.

10 Based on the Court’s Order, plaintiffs have requested that Roche dismiss its counterclaims  
 11 against Drs. Merigan and Holodniy, and dismiss its claims relating to the Kozal patents. If Roche  
 12 will not to dismiss these claims voluntarily, Plaintiffs intend to bring a summary judgment motion  
 13 to effect the dismissal.

14 In light of the Court’s order, Roche will be filing, concurrently with this CMC statement,  
 15 a request pursuant to Civil L.R. 7-11 and Fed. R. App. P. 5(a) seeking an order from this Court  
 16 amending its February 23, 2007 Memorandum & Order: Cross Motions for Summary Judgment  
 17 (“SJ Order”) to certify the SJ Order for immediate appeal pursuant to 28 U.S.C. § 1292(b) and to  
 18 stay proceedings pending appeal because the SJ Order (1) “involves a controlling question of law  
 19 as to which there is a substantial ground for difference of opinion” and (2) “immediate appeal  
 20 from the order may materially advance the ultimate termination of the litigation.” 28 U.S.C. §  
 21 1292(b). Should the Court deny Roche’s request, Roche is prepared to proceed with the second  
 22 phase of this matter as set forth below.

23 **ALTERNATIVE DISPUTE RESOLUTION**

24 As the Court is aware, prior to the filing of the case, the parties participated in a private,  
 25 non-court-sponsored, JAMS mediation with Magistrate Judge Edward Infante on April 6, 2005.  
 26 The parties also met in person to discuss settlement on Thursday, February 1, 2007.

27 **DISCOVERY**

28 The parties agree to 25 interrogatories, 100 requests for admission, and 70 hours of

1 deposition per side (not per party) excluding time expended in deposing expert witnesses.  
 2 Stanford has proposed that no previously deposed witnesses, without exclusion, can be deposed  
 3 for more than one additional half day of 3.5 hours. Roche is amenable to such a proposal  
 4 provided that any previously deposed named inventors are excepted from such agreement.

5 **CASE SCHEDULE**

6 **Stanford's Proposed Case Schedule**

7 Stanford believes that the case should proceed on its patent infringement claims and all  
 8 other remaining issues as well. Stanford proposes the case schedule below. With regard to the  
 9 deadline for amending pleadings, Stanford is unaware of what new claims or defenses Roche  
 10 intends to assert and thus reserves the right to request a different schedule or course of action  
 11 depending on the nature of any amended pleading filed by Roche.

12	<b>Event</b>	<b>Due Date</b>
13	CMC	3/19/07
14	Last day for patentee to serve Disclosure of Asserted Claims and Preliminary Infringement Contentions and produce initial patent disclosures	04/02/07
15	Last day to amend pleadings without leave of court	04/06/07
16	Last day for accused infringer to serve Preliminary Invalidity Contentions and produce initial patent disclosures	05/17/07
17	Exchange Proposed Disputed Terms	06/01/07
18	Last day for simultaneous exchange Preliminary Claim Construction and identify extrinsic evidence	06/15/07
19	Last day to file Joint Claim Construction and Prehearing Statement	06/29/07
20	Claim Construction Prehearing Conference	As per the Court's schedule
21	Completion of claim construction discovery	07/20/07
22	Opening claim construction brief	08/3/07
23	Responsive claim construction brief	08/22/07
24	Reply claim construction brief	08/31/07
25	Claim construction hearing	9/17/07
26	Last day to amend Preliminary Infringement Contention pursuant to Pat LR 3-6 (a)	30 days after Claim Construction Order

	<b>Event</b>	<b>Due Date</b>
1	Last day to amend Preliminary Invalidity Contentions pursuant to Pat LR 3-6(b)	50 days after Claim Construction Order
2	Last day for accused infringer to produce opinions of counsel and related privilege log re willfulness	50 days after Claim Construction Order
3	Proposed End of Fact Discovery	10/24/07
4	Opening Expert Reports due for Party with burden of proof	11/30/07
5	Rebuttal Expert Reports due	12/21/07
6	Proposed End of Expert Discovery	1/31/07
7	Last Day for filing dispositive motions	02/29/08
8	Last Day for Opposition Briefs	03/21/08
9	Last Day for Reply Briefs	04/2/08
10	Hearing on dispositive motions	04/21/08
11	Pretrial conference	05/12/08
12	Trial	05/13/08

15                   Roche's Proposed Case Schedule

16                   Roche proposes initiating the patent local rule schedule immediately following the close  
 17 of pleadings. Roche proposes tracking the patent local rules for all dates and closing fact  
 18 discovery approximately eleven weeks after the claim construction hearing.

	<b>Event</b>	<b>Due Date</b>
20	CMC	3/19/07
21	Last day to amend pleadings without leave of court	04/06/07
22	Last day for patentee to serve Disclosure of Asserted Claims and Preliminary Infringement Contentions and produce initial patent disclosures	4/20/2007
23	Last day for accused infringer to serve Preliminary Invalidity Contentions and produce initial patent disclosures	06/04/2007
24	Exchange Proposed Disputed Terms	06/18/2007
25	Last day for simultaneous exchange Preliminary Claim Construction and identify extrinsic evidence	07/09/2007

Event	Due Date
Last day to file Joint Claim Construction and Prehearing Statement	08/03/2007
Claim Construction Prehearing Conference	As per the Court's schedule
Completion of claim construction discovery	09/04/2007
Opening claim construction brief	09/17/2007
Responsive claim construction brief	10/1/2007
Reply claim construction brief	10/11/2007
Claim construction hearing	10/25/2007
Commence Damages Discovery	10/26/2007
Last day to amend Preliminary Infringement Contention pursuant to Pat LR 3-6 (a)	30 days after Claim Construction Order
Last day to amend Preliminary Invalidity Contentions pursuant to Pat LR 3-6(b)	50 days after Claim Construction Order
Last day for accused infringer to produce opinions of counsel and related privilege log re willfulness	50 days after Claim Construction Order
Proposed End of Fact Discovery	1/11/08
Opening Expert Reports due for Party with burden of proof	2/8/08
Rebuttal Expert Reports due	2/29/08
Proposed End of Expert Discovery	3/28/08
Last Day for filing dispositive motions	4/18/08
Last Day for Opposition Briefs	5/2/08
Last Day for Reply Briefs	5/16/08
Hearing on dispositive motions	6/13/08
Pretrial conference	10/27/08
Trial	10/28/08

24  
25 **Anticipated length of trial:**

26 Stanford, Merigan, and Holodniy oppose any further bifurcation. Stanford, Merigan, and  
27 Holodniy request 7 trial days for their entire case (affirmative and rebuttal), including issues of  
28

1 infringement and validity, where each trial day is from 8:30 a.m. to 4:30 p.m. Roche requests 7  
 2 trial days for the presentation of its case.

3 Dated: March 12, 2007

COOLEY GODWARD KRONISH LLP  
 4 STEPHEN C. NEAL  
 RICARDO RODRIGUEZ  
 5 MICHELLE S. RHYU

6 /s/  
 7

Ricardo Rodriguez  
 8 Attorneys for Counter Defendants The Board of  
 Trustees of the Leland Stanford Junior University,  
 9 Thomas Merigan and Mark Holodniy

10 Dated: March 12, 2007

11 QUINN EMANUEL URQUHART OLIVER &  
 HEDGES, LLP

12 JEFFREY N. BOOZELL  
 13 ROBERT W. STONE  
 BRIAN C. CANNON  
 14 TUN-JEN CHIANG

15 PRUETZ LAW GROUP LLP  
 16 ADRIAN M. PRUETZ

17 /s/  
 18

Brian C. Cannon  
 19 Attorneys for Defendants and Counterclaim  
 Plaintiff Roche Molecular Systems, Inc.; Roche  
 Diagnostics Corporation; and Roche Diagnostics  
 Operations, Inc.

21 /s/  
 22

Filer's Attestation: Pursuant to General Order No.  
 23 45, Section X(B) regarding signatures, Ricardo  
 Rodriguez hereby attests that concurrence in the  
 24 filing of the document has been obtained.