

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

6 Attorneys for Plaintiff and Counterclaim Defendant
THE BOARD OF TRUSTEES OF THE LELAND STANFORD
7 JUNIOR UNIVERSITY and Counterclaim Defendants THOMAS
MERIGAN and MARK HOLODNIY
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 THE BOARD OF TRUSTEES OF THE
13 LELAND STANFORD JUNIOR
UNIVERSITY,
14
Plaintiff,
15
v.
16
17 ROCHE MOLECULAR SYSTEMS, ET AL.,
18
Defendants.

Case No. C 05 04158 MHP

**[PROPOSED] ORDER RE CLAIM
CONSTRUCTION**

19 ROCHE MOLECULAR SYSTEMS, ET AL.,
20
Counterclaimants,
21
v.
22
23 THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JUNIOR
24 UNIVERSITY; THOMAS MERIGAN; AND
MARK HOLODNIY,
25
Counterclaim Defendants.
26

Date: October 3, 2007
Courtroom: 15, 18th Floor

Hon. Marilyn Hall Patel

1 On October 3, 2007, the Court held a hearing on claim construction by Plaintiff The Board
 2 of Trustees of the Leland Stanford Junior University (“Stanford”) and Defendants Roche
 3 Molecular Systems et al. (“Roche”). Upon full consideration of all submitted papers and oral
 4 arguments in support of and in opposition to the claim construction, and for good cause shown,
 5 the Court construes the disputed terms as follows:

Disputed Terms	Stanford’s Construction
“therapeutically effective”	No construction necessary
“therapeutically ineffective”	No construction necessary
“an antiretroviral agent”	“at least one substance having or capable of having an effect against a retrovirus, such as HIV”
“measuring the HIV RNA copy number”	No construction necessary
“presence of detectable HIV-encoding nucleic acid”	No construction necessary
“absence of detectable HIV-encoding nucleic acid”	No construction necessary
“collecting statistically significant data useful for determining whether a decline in HIV RNA copy numbers exists”	“gathering data from the patient and/or other sources that is useful in assessing whether any decline in HIV RNA copy number was not the result of chance”
“statistically significant data”	No separate construction necessary
“statistically significant decline”	“a decrease that is large enough, by itself or when compared to other data, that it was not likely the result of chance”

22
 23 SO ORDERED.

24 Dated: _____

 Hon. Marilyn Hall Patel
 United States District Court Judge