

EXHIBIT E

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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
13 THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JUNIOR
14 UNIVERSITY,

15 Plaintiff,

16 v.

17 ROCHE MOLECULAR SYSTEMS, ET AL.,

18 Defendants.

19 ROCHE MOLECULAR SYSTEMS, ET AL.,

20 Counterclaimants,

21 v.

22 THE BOARD OF TRUSTEES OF THE
23 LELAND STANFORD JUNIOR
UNIVERSITY; THOMAS MERIGAN; AND
24 MARK HOLODNIY,

25 Counterclaim Defendants.
26
27
28

Case No. C 05 04158 MHP

**PLAINTIFF'S RESPONSES AND
OBJECTIONS TO DEFENDANTS' FIRST
SET OF INTERROGATORIES IN THE
SECOND PHASE [31-44]**

1 it seeks information that has already been provided to Roche under Patent L. R. 3-1 or is
2 otherwise premature. Stanford further objects to this interrogatory because it is compound and is
3 actually multiple interrogatories.

4 Subject to and without waiving its General Responses, General Objections, and the
5 foregoing objections, Stanford responds as follows:

6 Stanford incorporates by reference its Preliminary Infringement Contentions and any
7 future supplements or amendments thereto. Stanford reserves the right to amend, supplement, or
8 revise its response to this interrogatory or its Preliminary Infringement Contentions as it continues
9 its investigation and discovery.

10 **INTERROGATORY NO. 32:**

11 If You contend that Roche induced or contributed to the infringement of any claim of the
12 Patents-in-Suit, Identify with particularity each and every instance of direct infringement, and all
13 circumstances relating to each instance of direct infringement including the time, place, manner
14 of infringement and the identity of the Person who performed such direct infringement, upon
15 which You rely to prove Defendants induced or contributed to such infringement and all facts that
16 You contend support Your assertion of Roche's liability for such infringement.

17 **RESPONSE TO INTERROGATORY NO. 32:**

18 Stanford specifically incorporates the General Responses and General Objections set forth
19 above to the extent applicable to this interrogatory. Stanford also specifically objects to this
20 interrogatory as set forth herein.

21 Stanford specifically objects to this interrogatory to the extent that it seeks information
22 protected by the attorney-client privilege, the work product doctrine, and/or the joint defense
23 privilege. Stanford further objects to this interrogatory to the extent that it is so vague and
24 ambiguous as to be unduly burdensome and oppressive. Stanford also objects to this
25 interrogatory on the grounds that it is overly broad and unduly burdensome and would subject
26 Stanford to unreasonable and undue annoyance and expense. Further, Stanford objects to this
27 interrogatory to the extent that it is a premature contention interrogatory, calls for a legal
28 conclusion and/or expert opinion. Stanford further objects to this interrogatory because it is

1 compound and is actually multiple interrogatories.

2 Subject to and without waiving its General Responses, General Objections, and the
3 foregoing objections, Stanford responds as follows:

4 Stanford incorporates by reference its Preliminary Infringement Contentions and any
5 future supplements or amendments thereto.

6 The FDA-approved product labels for the AMPLICOR HIV-1 MONITOR Test and the
7 COBAS AMPLICOR HIV-1 MONITOR Test and Roche's web site instruct physicians and
8 laboratory personnel who use the AMPLICOR Tests to perform steps that result in infringement
9 of one or more claims of the asserted patents. Roche's instructions to use the AMPLICOR tests
10 in this manner is evidence that its customers do use the products in this manner. *See Moleculon*
11 *Research Corp. v. CBS, Inc.*, 793 F.2d 1261 (Fed. Cir. 1986). Stanford reserves the right to
12 amend, supplement, or revise its response to this interrogatory as it continues its investigation and
13 discovery.

14 **INTERROGATORY NO. 33:**

15 Describe in detail all reasons You contend that the JID Article and the UCLA Abstract,
16 each alone or in combination, does not render invalid the asserted claims of the Patents-in-Suit
17 under 35 U.S.C. §§ 102 or 103. To the extent You contend that such references do not contain an
18 element or step of the claims of the Patents-in-Suit, Identify such missing element or step.

19 **RESPONSE TO INTERROGATORY NO. 33:**

20 Stanford specifically incorporates the General Responses and General Objections set forth
21 above to the extent applicable to this interrogatory. Stanford also specifically objects to this
22 interrogatory as set forth herein.

23 Stanford specifically objects to this interrogatory to the extent that it seeks information
24 protected by the attorney-client privilege, the work product doctrine, and/or the joint defense
25 privilege. Stanford further objects to this interrogatory to the extent that it is so vague and
26 ambiguous as to be unduly burdensome and oppressive. Stanford also objects to this
27 interrogatory on the grounds that it is overly broad and unduly burdensome and would subject
28 Stanford to unreasonable and undue annoyance and expense. Stanford also objects to this

1 **INTERROGATORY NO. 44:**

2 Describe in detail every interaction with any agency of the United States government in
3 connection with the funding, development, conception, reduction to practice and/or application
4 for patent rights for any of the claimed inventions of the Patents-in-Suit, including without
5 limitation the identity of any funding agreement with the United States government that You
6 contend governs the assignment of rights and title in connection with the Patents-in-Suit.

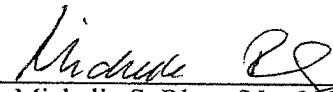
7 **RESPONSE TO INTERROGATORY NO. 44:**

8 Stanford specifically incorporates the General Responses and General Objections set forth
9 above to the extent applicable to this interrogatory. Stanford also specifically objects to this
10 interrogatory as set forth herein.

11 Stanford specifically objects to this interrogatory to the extent that it seeks information
12 protected by the attorney-client privilege, the work product doctrine, and/or the joint defense
13 privilege. Stanford further objects to this interrogatory to the extent that it is so vague and
14 ambiguous as to be unduly burdensome and oppressive. Stanford also objects to this interrogatory
15 on the grounds that it is overly broad and unduly burdensome and would subject Stanford to
16 unreasonable and undue annoyance and expense. Stanford further objects to this interrogatory to
17 the extent it seeks information not reasonably calculated to lead to the discovery of admissible
18 evidence. Such information is irrelevant to this phase of the case in light of Judge Patel's April
19 16, 2007 Memorandum & Order regarding Cross-Motions for Summary Judgment. Stanford
20 further objects to this interrogatory because it is compound and is actually multiple
21 interrogatories.

22 Dated: May 29, 2007

COOLEY GODWARD KRONISH LLP

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25 _____
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26 Attorneys for Plaintiff and Counterclaim
27 Defendant The Board of Trustees of the Leland
Stanford Junior University and Counterclaim
28 Defendants Thomas Merigan and Mark Holodniy