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

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 THE BOARD OF TRUSTEES OF THE LELAND
 16 STANFORD JUNIOR UNIVERSITY,

17 Plaintiff,

18 vs.

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

21 Defendants.

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

24 Counterclaimants,

25 vs.

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

28 Counterclaim Defendants.

CASE NO. C-05-04158 MHP

DECLARATION OF JOHN J.
 SNINSKY, Ph.D. IN SUPPORT OF
 ROCHE'S MOTION FOR
 SUMMARY JUDGMENT

1 Declaration of John J. Sninsky, Ph.D.

2 I, John J. Sninsky, Ph.D., declare:

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

5 2. I am currently the Vice President, Discovery Research at Celera Diagnostics in
6 Alameda, CA. I have held that position since 2000.

7 3. I received a Ph.D. in biology from Purdue University in 1976 and worked as a
8 postdoctoral fellow at the Stanford University Department of Medicine from 1976 to 1980. From
9 1981 to 1984, I was an Assistant Professor at Albert Einstein College of Medicine in the
10 Department of Microbiology and Immunology, with a joint appointment in the Department of
11 Molecular Biology.

12 4. In 1984, I joined Cetus Corporation as a Senior Scientist in the Department of
13 Microbial Genetics. In 1985, I became the Director, Diagnostics Program and Director,
14 Department of Infectious Diseases. I held those positions until 1988 when I was promoted to
15 Senior Director, Diagnostics Program, PCR Division and Director, Department of Infectious
16 Diseases. I left Cetus in 1991 and joined Roche Molecular Systems as the Senior Director,
17 Discovery Research.

18 5. At the time that I started at Cetus in 1984, the spread of AIDS was reaching
19 epidemic proportions. As a virologist and a Senior Scientist working with PCR, I recognized that
20 PCR would potentially be a useful tool for AIDS research, as well as patient diagnosis and
21 therapy.

22 6. For instance, on July 18, 1985, I and Shirley Kwok, another Cetus scientist,
23 prepared a memorandum to senior Cetus management and scientists entitled "Detection of AIDS
24 Associated Virus(es) as a Potential Target." A copy of the memorandum is attached as Exhibit 1.
25 Our memorandum proposes applying the PCR technique to AIDS research including obtaining
26 clinical samples from patients and determining whether PCR could be used to amplify nucleotide
27 sequences that correspond to the AIDS virus. See Exhibit 1 at page 4.

28

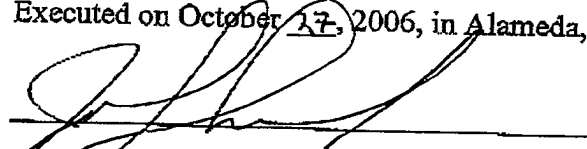
1 7. I and others at Cetus began work applying PCR to AIDS and HIV shortly
2 thereafter.

3 8. For instance, as a result of our work at Cetus, we filed a patent application on
4 January 10, 1986 that led to the issuance of U.S. Patent No. 5,008,182 ("Detection of AIDS
5 Associated Virus By Polymerase Chain Reaction"). A copy of this patent is attached as Exhibit 2.
6 The named inventors are myself, Shirley Kwok and David H. Mack, and the patent was assigned
7 to Cetus. This early patent claimed, "A process for detecting or monitoring a nucleic acid
8 sequence to the nucleic acid in AIDS viruses, which AIDS virus nucleic acid sequence is
9 suspected of being contained in a sample . . ." Exhibit 2 at col. 22, lines 6-9 (claim 1). Our patent
10 also claims the process where the "nucleic acid is single-stranded RNA and said single-stranded
11 RNA is reverse transcribed . . ." *Id.* at col. 22, line 67 to col. 23, line 1 (claim 8).

12 9. In addition, as another example of our work at Cetus applying PCR to AIDS and
13 HIV, on October 7, 1988, we filed a patent application that led to the issuance of U.S. Patent No.
14 5,389,512 ("Method for Determining the Relative Amount of a Viral Nucleic Acid Segment in a
15 Sample by the Polymerase Chain Reaction"). A copy of the patent is attached as Exhibit 3. The
16 inventors are myself and Shirley Kwok, and the patent was assigned to Cetus. This patent
17 specifically addresses detecting and quantifying HIV, including determining copy number. Ex. 3
18 at col. 2, lines 1-11. This patent also teaches that monitoring the "viral load," i.e., the amount of
19 HIV, in a patient sample "can reveal whether a patient is responding to therapy." *Id.* at col. 2,
20 lines 8-9.

21
22 I declare under penalty of perjury under the laws of the United States that the foregoing is
23 true and correct.

24 Executed on October 17, 2006, in Alameda, California.

25 
26 _____
27 John J. Sninsky, Ph.D.

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