

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  
 3000 El Camino Real  
 Palo Alto, CA 94306-2155  
 Tel: (650) 843-5000  
 Fax: (650) 857-0663

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

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA

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

15 Plaintiff,

16 v.

17 ROCHE MOLECULAR SYSTEMS, ET AL.,

18 Defendants.

20 ROCHE MOLECULAR SYSTEMS, ET AL.,

21 Counterclaimants,

22 v.

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

26 Counterclaim Defendants.

Case No. C 05 04158 MHP

**COUNTERCLAIM DEFENDANTS  
 STANFORD UNIVERSITY, DR. MERIGAN  
 AND DR. HOLODNIY'S NOTICE OF  
 MOTION AND MOTION FOR SUMMARY  
 JUDGMENT**

HEARING DATE: December 4, 2006  
 TIME: 2:00 p.m.  
 DEPT: 15, 18<sup>th</sup> Floor  
 JUDGE: HON. MARILYN HALL PATEL

1 PLEASE TAKE NOTICE that on December 4th, 2006, at 2:00 p.m., or as soon thereafter  
2 as the matter may be heard in Courtroom 15 of the above-entitled Court located at 450 Golden  
3 Gate Avenue, San Francisco, California, Eighteenth Floor, before the Honorable Marilyn Hall  
4 Patel, Plaintiff and Counterclaim Defendant, the Board of Trustees of the Leland Stanford Junior  
5 University and Counterclaim Defendants Thomas Merigan and Mark Holodniy (“Stanford”) will  
6 and hereby do move for summary judgment in this action pursuant to Federal Rule of Civil  
7 Procedure 56 and Civil Local Rule 56.

8 For the foregoing reasons, Stanford moves for Summary Judgment as follows: (1)  
9 RMS’s ownership, license, and breach of contract claims are barred by the statute of limitations,  
10 laches and/or estoppel; (2) RMS has no ownership or license rights to the inventions at issue  
11 under the 1984 and 1991 Merigan Consulting Agreements; (3) RMS has no ownership or license  
12 rights to the inventions at issues under the 1988 MTA; and (4) RMS has no ownership or license  
13 rights to the inventions at issue under the 1989 Visitor’s Confidentiality Agreement.

14 This motion is based on the pleadings and papers on file in this action, this Notice of  
15 Motion and Memorandum of Points and Authorities, Declaration of Luis R. Mejia, Declaration  
16 of Mark Holodniy and Declaration of Michelle S. Rhyu and associated documents, filed and  
17 served herewith.

18  
19 Dated: October 27, 2006

COOLEY GODWARD KRONISH LLP

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By: /s/ Michelle S. Rhyu

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

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