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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EXONHIT THERAPEUTICS S.A., a  
French société anonyme, and EXONHIT  
THERAPEUTICS, INC., a Delaware  
corporation,

Plaintiffs,

v.

JIVAN BIOLOGICS, INC., a Delaware  
corporation,

Defendant.

No. C 07-01427 WHA

**ORDER SETTING BRIEFING  
SCHEDULE, DEPOSITIONS,  
AND HEARING REGARDING  
AMENDED CLAIMS OF THE  
'571 PATENT**

As set forth at the hearing held on January 14, 2010, IT IS HEREBY ORDERED:

1. With respect to the order to show cause filed by the undersigned on December 10, 2009, plaintiffs shall file a reply brief to defendant's response by **NOON ON THURSDAY, JANUARY 21, 2010.**
2. One-day depositions of the experts relied upon by the parties in their responses to the order to show cause — Dr. Eric Lander for plaintiffs, and Dr. Subha Srinivasan for defendant — shall be scheduled and taken on or before **JANUARY 29, 2010.** The deposition of Dr. Lander shall be scheduled *after* plaintiffs' reply brief is filed, to allow defendant an opportunity to prepare for and address any testimony provided by Dr. Lander in plaintiffs' reply. The deposition must be limited to the


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“substantive change” issue raised in the order to show cause. Of course, questions of bias, expertise, and credibility may be explored to the extent they are relevant.

3. Both parties shall file further statements on the issue of whether the amended claims have been “substantively changed” by **NOON ON FEBRUARY 11, 2010**. These statements should address the expert depositions, whether the prosecution history of the *original* patent contemplated the limitation added by the amended claims, and any other relevant information that will help to complete the record. Both sides should make their strongest arguments.
4. By **FEBRUARY 18, 2010**, the parties shall meet *at least once* before Magistrate Judge Joseph C. Spero to discuss any possibility of settlement.
4. A hearing on this issue is scheduled for **9:00 A.M. ON THURSDAY, FEBRUARY 25, 2010**. This will not be an evidentiary hearing; no expert testimony will be heard.

**IT IS SO ORDERED.**

Dated: January 14, 2010.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE