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 6 Defendants  
 VERINATA HEALTH, INC. and  
 7 THE BOARD OF TRUSTEES OF THE  
 LELAND STANFORD JUNIOR UNIVERSITY

Attorneys for Defendants and Counterclaim-  
 Plaintiffs  
 SEQUENOM, INC. and  
 SEQUENOM CENTER FOR MOLECULAR  
 MEDICINE LLC

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15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**  
 17 **SAN FRANCISCO DIVISION**

18 VERINATA HEALTH, INC., and THE BOARD  
 OF TRUSTEES OF THE LELAND STANFORD  
 19 JUNIOR UNIVERSITY,  
 20 Plaintiffs,  
 21 v.  
 22 THE CHINESE UNIVERSITY OF HONG  
 KONG,  
 23 Defendant,  
 24 and  
 25 SEQUENOM, INC., and SEQUENOM CENTER  
 FOR MOLECULAR MEDICINE, LLC,  
 26 Defendants/Counterclaim-  
 27 Plaintiffs,  
 28 v.

CASE NO. 3:12-cv-00865-SI  
**PROPOSED STIPULATED CASE  
 SCHEDULE; ~~PROPOSED~~ ORDER**

Hon. Susan Illston

1 VERINATA HEALTH, INC., and THE BOARD  
2 OF TRUSTEES OF THE LELAND STANFORD  
3 JUNIOR UNIVERSITY,

4 Counterclaim-Defendants,

5 and

6 ISIS INNOVATION LIMITED,

7 Nominal Counterclaim-  
8 Defendant.

1 Further to the Court’s May 14, 2014 Order permitting the filing of the First Supplemental  
2 Complaint, the parties Verinata Health, Inc. (“Verinata”), The Board of Trustees of the Leland  
3 Stanford Junior University (“Stanford”), Sequenom, Inc. and Sequenom Center for Molecular  
4 Medicine LLC (together “Sequenom”), and The Chinese University of Hong Kong (“CUHK”)  
5 jointly submit this statement and stipulation regarding the case schedule and future conduct of the  
6 case.

7 **I. PRELIMINARY STATEMENT**

8 The parties in this action have met and conferred, and have agreed to the case schedule and  
9 future conduct of the case presented below. The parties respectfully request that the Court modify  
10 the current pretrial and trial schedule to take into account new party CUHK and the new issues  
11 raised in the First Supplemental Complaint. The parties propose that the § 146 issues be tried in a  
12 bench trial by the Court (if necessary)<sup>1</sup> before the jury trial.

13 The parties agree that the sole issue to be tried during the § 146 proceeding is whether  
14 Stanford’s U.S. Patent No. 8,008,018 and U.S. Patent Application No. 12/393,833 satisfy the written  
15 description requirement for Stanford’s claims. In the event CUHK prevails on this issue, the parties  
16 agree the Court will order that the judgments entered in Interference Nos. 105,920, 105,923, and  
17 105,924 are affirmed. In the event Verinata and Stanford prevail on this issue, the parties agree that  
18 the Court will order priority of invention in favor of Quake for the subject matter of the Counts in  
19 the interferences. The parties also agree that under either outcome they will not seek remand to the  
20 U.S. Patent and Trademark Office for consideration of additional issues raised in the interferences,  
21 and they further agree that the Court’s decision in the § 146 proceeding shall be appealable.

22 The parties respectfully request that the Court vacate the currently scheduled dates and order  
23 the revised schedule proposed herein by the parties. The parties respectfully request that the Court  
24 set February 23, 2015 (the date previously scheduled for trial in *Verinata Health, Inc. et al. v. Ariosa*  
25 *Diagnostics, Inc. et al.* Case No. 12-cv-05501) as the date for the bench trial (if required) or the jury

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27 <sup>1</sup> The parties acknowledge the possibility that the court may resolve the § 146 issue on  
28 summary judgment.

1 trial for all remaining claims. In the event that a bench trial is needed, the parties respectfully  
2 request that the jury trial follow immediately after the bench trial. The parties respectfully propose  
3 that the time/deadlines for pretrial preparation would be extended consistent with the new trial dates.

4 The parties have agreed and propose that the Court order as follows:

- 5 I. With respect to the § 146 issues, the parties agree and respectfully request the Court  
6 to order that:
- 7 a. There will be no new fact discovery regarding the § 146 issues absent good  
8 cause shown. In the event that good cause is shown and further fact discovery  
9 is taken, the schedule set forth below may need to be extended accordingly.
- 10 b. The records from Interference Nos. 105,920, 105,923, and 105,924 will be  
11 entered into evidence in this action and may also be utilized for the purposes  
12 of the § 146 issues (“the PTAB Record”).
- 13 c. CUHK may submit an expert report in support of its positions on the § 146  
14 issues, and Verinata/Stanford may submit a rebuttal report. After reviewing  
15 Stanford/Verinata’s rebuttal report, CUHK may decide to submit a rebuttal  
16 report to Stanford/Verinata’s rebuttal report. Fact and expert witness  
17 discovery previously scheduled or taken in this matter may be utilized for the  
18 purposes of the § 146 issues.
- 19 II. CUHK and Verinata/Stanford have further agreed that in consideration for agreeing  
20 to proceed as set out herein, and if their agreement is approved by the Court, CUHK  
21 will consent to personal jurisdiction in this District for purposes of the § 146 action.  
22 In further consideration, Verinata/Stanford will dismiss without prejudice Action No.  
23 1:14-cv-688 filed on June 9, 2014 in the Eastern District of Virginia relating to the  
24 § 146 issues.
- 25 III. Unless Sequenom and/or CUHK successfully obtain a summary judgment of  
26 invalidity of U.S. Patent No. 8,008,018, the § 146 issues will be tried to the Court in a  
27 bench trial (before the jury trial) scheduled for February 23, 2015. Subject to the  
28 outcome of motions for summary judgment, any remaining issues of infringement,

1 validity, willfulness, and damages, will be tried to a jury immediately after any bench  
2 trial. To the extent a bench trial is unnecessary, the jury trial will be scheduled to  
3 commence on February 23, 2015.

4  
5 **II. STIPULATED CASE SCHEDULE**

Event	Date
CUHK expert report on § 146 issues	August 29, 2014
Verinata/Stanford rebuttal expert report on § 146 issues	September 9, 2014
CUHK rebuttal expert report on § 146 issues (optional to CUHK)	September 16, 2014
Expert discovery cutoff	September 26, 2014
Last day to file dispositive motions	October 10, 2014
Last day to file dispositive motion opposition briefs Civil L.R. 7-3(a)	October 24, 2014
Last day to file dispositive motion reply briefs Civil L.R. 7-3(c)	October 31, 2014
Dispositive Motion Hearing	November 14, 2014
Last day to file Joint Pretrial Conference Statement, trial witness list and summary of proposed testimony, deposition and written discovery designations, jury instructions, admissibility stipulations, motions <i>in limine</i> , and trial exhibits/objections.  Judge Illston's Pretrial Instruction Nos. 1, 2, 3, 5(b), 6	January 27, 2015
Last day to file responses to motions <i>in limine</i> .	February 3, 2015
Judge Illston's Pretrial Instruction No. 6	
Pretrial Conference	February 10, 2015



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**CERTIFICATION**

I, Derek C. Walter, am the ECF User whose identification and password are being used to file this Stipulation. In compliance with General Order 45.X.B, I hereby attest that all signatories listed and on whose behalf the filing is submitted, have concurred in this filing.

/s/ Derek C. Walter  
Derek C. Walter

**IT IS SO ORDERED.**

Dated: 7/25/14



Honorable Susan Illston  
United States District Court Judge