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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VERINATA HEALTH, INC., et al.,
Plaintiffs,
v.
SEQUENOM, INC., et al.,
Defendants.

Case No. [12-cv-00865-SI](#)

**ORDER RE: STATUS OF BIOGEN
CASE**

On February 2, 2015, the Court denied cross-motions for summary judgment filed by Sequenom and CHUK, and *sua sponte* stayed the action pending the Federal Circuit’s resolution of the appeal from *Biogen Idec MA, Inc. v. Japanese Found. for Cancer Research*, No. CIV. 13-13061-FDS, 2014 WL 2167677 (D. Mass. May 22, 2014), which found that the proper forum for § 146 appeals from PTAB interference proceedings declared *after* September 16, 2012 is the Federal Circuit, not a district court. Docket No. 345. This Court found that if the Federal Circuit affirmed the *Biogen* ruling, it would likely deprive this Court of subject matter jurisdiction over this case. On May 7, 2015, the Federal Circuit affirmed, thereby depriving this Court of subject matter jurisdiction. *Biogen MA, Inc. v. Japanese Found. for Cancer Research*, 785 F.3d 648 (Fed. Cir. 2015).

On May 8, 2015, CHUK filed a letter requesting that the Court dismiss this action with prejudice. Docket No. 365. In a reply, Stanford urged the Court to postpone any action until the time for initiating *en banc* review had expired, and that in any event, dismissal was an improper remedy. Docket No. 357.

The Court hereby **ORDERS** the parties to file a joint statement no later than July 1, 2015 informing the Court as to the status of the *Biogen* case, and in particular, whether the time for

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initiating *en banc* review has expired. In the event that the Federal Circuit will not rehear the case, the Court intends to transfer this action to the Federal Circuit.

IT IS SO ORDERED.

Dated: June 25, 2015



SUSAN ILLSTON
United States District Judge