



1 Plaintiff Cepheid filed this declaratory judgment action on August 21, 2012, seeking, *inter*  
2 *alia*, a declaration that the claims of U.S. Patent Nos. 5,804,375 (“the ’375 patent”) and 6,127,155  
3 (“the ’155 patent”) are not infringed, are invalid, and are otherwise unenforceable. Defendant Roche  
4 Molecular Systems, Inc. moved to stay Counts I and II related to the ’375 patent pending final  
5 resolution of a Swiss arbitration between the parties and moved to dismiss Counts III and IV related  
6 to the ’155 patent for lack of subject matter jurisdiction. On January 17, 2013, the Court issued its  
7 Order Granting Defendant’s Motion to Stay and Motion to Dismiss (“Order”). ECF No. 68. The  
8 Court stayed Counts I and II until further order of this Court and dismissed Counts III and IV for  
9 lack of subject matter jurisdiction. With respect to Counts I and II, the Court directed the parties to  
10 “update this Court within 30 days of the issuance of the Arbitral Tribunal’s decision on the issue of  
11 jurisdiction.” *Id.* at 8.

12 Pursuant to the Order, the parties notified the Court that on August 1, 2013, the International  
13 Chamber of Commerce (ICC) International Court of Arbitration issued a letter notifying the parties  
14 that the Arbitral Tribunal had rendered a Partial Award on arbitral jurisdiction, dated July 30, 2013.  
15 ECF No. 77. The Partial Award included an order concerning jurisdiction, in which the Arbitral  
16 Tribunal concluded that it has jurisdiction to decide on the relief sought by the claimants (i.e., Roche  
17 Molecular Systems, Inc. and F. Hoffmann-La Roche Ltd). Cepheid appealed the Arbitral Tribunal’s  
18 jurisdictional decision. *Id.* On February 28, 2014 the Swiss Federal Court dismissed Cepheid’s  
19 appeal in its entirety. The Arbitration is proceeding in accordance with the schedule set by the  
20 Arbitral Tribunal.

21 Since the Court issued its January 2013 Order, the parties have jointly filed several  
22 stipulations to continue the Initial Case Management Conference and the Court has entered those  
23 stipulations. Specifically, on March 11, 2013, the Court reset the Case Management Conference  
24 from March 14, 2013 to June 20, 2013 (ECF Nos. 72, 73); on June 7, 2013 the Court reset the Case  
25 Management Conference from June 20, 2013 to October 10, 2013 (ECF Nos. 74, 75); on September  
26 23, 2013 the Court reset the Case Management Conference from October 10, 2013 to March 6, 2014  
27 (ECF Nos. 77, 78); on February 26, 2014 the Court reset the Case Management Conference from  
28 March 6, 2014 to November 13, 2014 (ECF Nos. 81, 82); on November 7, 2014 the Court reset the

1 Case Management Conference from November 13, 2014 to March 26, 2015 (ECF Nos. 84, 85); and  
2 on March 13, 2015 the Court reset the Case Management Conference from March 26, 2015 to  
3 September 24, 2015 (ECF Nos. 86, 87), which was recently reset *sua sponte* to September 23, 2015  
4 (ECF No. 88).

5 As of this time, the parties continue to believe that it is still not appropriate to lift the Court's  
6 stay at this time. Specifically, the evidentiary hearing for the liability phase of the Arbitration has  
7 taken place and the parties are now in the process of preparing and filing their post-hearing  
8 submissions.

9 Accordingly, the parties respectfully request that the Initial Case Management Conference,  
10 currently scheduled for September 23, 2015, be continued until April 21, 2016, or any other date that  
11 the Court deems appropriate. The parties will contact the Court before then if anything of substance  
12 occurs in the arbitration that may affect the status of this case.

13 By his signature below, Counsel for Plaintiff certifies that Counsel for Defendants concur in  
14 the filing of this notice.

15  
16 Dated: September 16, 2015

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~~[PROPOSED]~~ ORDER

Pursuant to the stipulation of the parties and good cause appearing therefore;

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_ 9/16/15 \_\_\_\_\_

