

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. On April 20, 2016 the Arbitral Tribunal issued a second Partial Award on
20 liability issues. The Arbitration is proceeding in accordance with the schedule set by the Arbitral
21 Tribunal.

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

1 March 6, 2014 to November 13, 2014 (ECF Nos. 81, 82); on November 7, 2014 the Court reset the
2 Case Management Conference from November 13, 2014 to March 26, 2015 (ECF Nos. 84, 85); on
3 March 13, 2015 the Court reset the Case Management Conference from March 26, 2015 to
4 September 24, 2015 (ECF Nos. 86, 87),), which was reset *sua sponte* to September 23, 2015 (ECF
5 No. 88); on September 16, 2015, the Court reset the Case Management Conference from September
6 23, 2015 to April 21, 2016 (ECF Nos. 89, 90), and on April 14, 2016, the Court reset the Case
7 Management Conference from April 21, 2016 to October 27, 2016 (ECF Nos. 92, 93), which the
8 Court then rescheduled *sua sponte* to November 8, 2016 (ECF No. 94).

9 As of this time, the parties continue to believe that it is not appropriate to lift the Court's stay.
10 Specifically, the Arbitral Tribunal has issued its Partial Award on liability and briefing on quantum
11 issues is ongoing, with a final decision expected in May/June 2017.

12 Accordingly, the parties respectfully request that the Initial Case Management Conference,
13 currently scheduled for November 8, 2016, be continued until June ¹⁵~~13~~, 2017, or any other date that
14 the Court deems appropriate. The parties will contact the Court before then if anything of substance
15 occurs in the arbitration that may affect the status of this case.

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

18 Dated: November 3, 2016

19 FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP

20 /s/ Erik R. Puknys
21 Erik R. Puknys
Attorney for Plaintiff Cepheid

22 WILMER CUTLER PICKERING HALE AND
23 DORR LLP

24 /s/ Robert J. Gunther, Jr.
25 Robert J. Gunther, Jr.
Attorney for Defendant F. Hoffmann-La Roche Ltd.

26 HUGHES HUBBARD & REED LLP

27 /s/ Stephen S. Rabinowitz
28 Stephen S. Rabinowitz
Attorney for Defendant Roche Molecular Systems, Inc.

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~~[PROPOSED]~~ ORDER

Pursuant to the stipulation of the parties and good cause appearing therefore;
CMC reset for 6/15/17 at 9:30 a.m. An updated joint CMC statement shall be
filed by 6/8/17.

~~IT IS SO ORDERED.~~

Dated: _____

