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19 IN THE UNITED STATES DISTRICT COURT
20 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

22 GERON CORPORATION, a Delaware
corporation,
23 Plaintiff,
24 v.
25 VIACYTE, INC., a Delaware corporation,
26 Defendant.

Case No. C-12-4813 WHO

**ORDER GRANTING STIPULATED
REQUEST TO ENLARGE TIME
PURSUANT TO CIVIL L.R. 6-2**

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CASE NO. C-12-4813 WHO

1 WHEREAS, on September 13, 2012, Plaintiff Geron Corporation (“Geron” or “Plaintiff”)
2 filed the complaint in this action against Defendant ViaCyte, Inc. (“ViaCyte” or “Defendant”)
3 pursuant to 35 U.S.C. § 146 (D.I. 1);

4 WHEREAS, on January 3, 2013, a Case Management Conference was held in this case
5 before Judge Edward M. Chen and the Court ordered that mediation was to be completed by June
6 30, 2013, that Defendant was to file a motion to define the scope of the case and discovery by
7 February 21, 2013, that Plaintiff was to file its opposition by March 7, 2013, that Defendant was
8 to file its reply by March 14, 2013, that discovery is limited to written discovery focused on those
9 issues which were decided by the Patent Appeals Board, and that hearing on the preceding motion
10 and a further Case Management Conference was set for April 4, 2013 (D.I. 31);

11 WHEREAS, on January 7, 2013, Geron publicly announced that it had entered into an
12 Asset Contribution Agreement, dated January 4, 2013, with BioTime, Inc. and BioTime
13 Acquisition Corporation, now Asterias Biotherapeutics, Inc. (“Asterias”), providing for the
14 divestiture of certain Geron stem cell assets, including the intellectual property at issue in this 35
15 U.S.C. § 146 appeal, to Asterias (the “Transaction”) upon the closing of the Transaction;

16 WHEREAS, under the Asset Contribution Agreement, the closing of the Transaction is
17 contemplated to occur on or about September 30, 2013. Conditions to the closing include the
18 requirement that Asterias and BioTime seek to obtain the effectiveness of certain registration
19 statements filed by each of them. The effectiveness of such registration statements is subject to
20 review and approval by the United States Securities and Exchange Commission (the “SEC”), and
21 none of Asterias, BioTime, or Geron controls the timing or course of SEC review or approval;

22 WHEREAS, upon the closing of the Transaction, Asterias will substitute in as plaintiff in
23 this action as the owner of the Geron intellectual property at issue in this action. Further, under
24 the Asset Contribution Agreement, Geron may not settle this action without Asterias’ consent.
25 Accordingly, the parties have conferred and are interested in conducting settlement discussions
26 before a mediator through the Court’s Alternative Dispute Resolution procedures between
27 Defendant ViaCyte, Inc. and Asterias, upon the closing of the Transaction;

1 WHEREAS, prior to reassignment of this case to the undersigned, counsel met, conferred
2 and agreed that dates for mediation, Motion to Define the Scope of this Case and Discovery,
3 Opposition to the Motion to Define the Scope, Reply to the Motion to Define the Scope, and the
4 Case Management Conference be extended until the earlier of (a) 30 days after the close of the
5 Transaction or (b) 31 days after September 30, 2013, as follows:

Event	Dates
Motion to Define Scope	October 31, 2013
Opposition to Motion to Define Scope	November 14, 2013
Reply to Motion to Define Scope	November 21, 2013
Case Management Conference	December 5, 2013
Mediation Completion (ADR L.R. 6-3)	February 28, 2014

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12 WHEREAS, the parties had jointly filed a Stipulated Request for Order Enlarging Time
13 Pursuant to Civ. L.R. 6-2 (D.I. 32) on January 16, 2013, and Judge Edward M. Chen granted said
14 request on January 24, 2013 (D.I. 33);

15 WHEREAS, the present case was reassigned to the Honorable William H. Orrick on June
16 27, 2013;

17 WHEREAS, the Reassignment Order and Order Requiring Submission of Case
18 Management Statement dated June 27, 2013 vacated the above previously granted dates with the
19 exception of the Mediation Completion date of February 28, 2014;

20 WHEREAS, the Court has scheduled a Case Management Conference for August 22,
21 2014;

22 WHEREAS, the undersigned counsel have met, conferred and agreed that the previously
23 ordered dates by Judge Chen for mediation, filing the Motion to Define the Scope of this Case
24 and Discovery, Opposition to the Motion to Define the Scope, and Reply to the Motion to Define
25 the Scope, be maintained. These dates are intended to extend deadlines until the later of (a) 30
26 days after the close of the Transaction, or (b) 31 days after September 30, 2013, or (c) later dates
27 at the Court's convenience. The chart below summarizes these dates in accordance with option
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1 (b). The parties are proposing an additional date of December 11, 2013 to hear the Motion to
2 Define Scope, which was not previously set and resetting the date for the Case Management
3 Conference.

Event	Dates
File Motion to Define Scope	October 31, 2013
Opposition to Motion to Define Scope	November 14, 2013
Reply to Motion to Define Scope	November 21, 2013
Proposed Hearing for Motion to Define Scope	December 11, 2013
Proposed Case Management Conference	January 7, 2014
Mediation Completion (ADR L.R. 6-3)	February 28, 2014

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11 Counsel further agree that all discovery should be stayed until ordered by the Court after
12 the next Case Management Conference.

13 WHEREAS, no other dates for this case have been set by the Court.

14 NOW THEREFORE, IT IS STIPULATED, AGREED AND ORDERED that the date for
15 filing the Motion to Define Scope and Discovery shall be the later of (a) 30 days after the close of
16 the Transaction or (b) October 31, 2013. Should the date for Motion to Define Scope and
17 Discovery be October 31, 2013, then the following agreed to dates apply.

Event	Dates
File Motion to Define Scope	October 31, 2013
Opposition to Motion to Define Scope	November 14, 2013
Reply to Motion to Define Scope	November 21, 2013
Hearing for Motion to Define Scope	December 11, 2013
Case Management Conference	January 7, 2014
Mediation Completion (ADR L.R. 6-3)	February 28, 2014

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24 Should the Transaction close after September 30, 2013, the parties shall so inform the Court, and
25 within one week of closure of the Transaction the parties shall submit a revised proposed
26 Scheduling Order consistent with this Order that provides for a filing date of the contemplated
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Motion to Define Scope and Discovery at 31 days following closure of the Transaction and a revised schedule consistent with this Order.

SO STIPULATED this 5th day of August 2013.

McDERMOTT WILL & EMERY LLP

BARTKO, ZANKEL, BUNZEL & MILLER
ROTHWELL, FIGG, ERNST & MANBECK PC

By: /s/ Judith S.H. Hom
 Judith S.H. Hom

By: /s/ Benjamin K. Riley
 Benjamin K. Riley

Attorneys for Geron Corporation

Attorneys for ViaCyte Inc.

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SIGNATURE ATTESTATION

Pursuant to General Order 45.X(B), I hereby attest that concurrence has been obtained from Benjamin K. Riley indicated by a “conformed” signature (/s/) within this e-filed document.

 /s/ Judith S.H. Hom
 Judith S.H. Hom

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ORDER

PURSUANT TO STIPULATION, **IT IS SO ORDERED.**

DATED: August 6, 2013



HON. WILLIAM H. ORRICK
Judge of the United States District Court