

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

GERON CORPORATION, a Delaware
corporation,

Plaintiff,

v.

VIACYTE, INC., a Delaware corporation,

Defendant.

Case No. C-12-4813 WHO

**STIPULATION AND ORDER FOR
SUBSTITUTION OF PARTIES
PURSUANT TO FED. R. CIV. PROC. 25
(c)**

Plaintiff Geron Corporation (“Geron”) and Defendant ViaCyte, Inc. (“ViaCyte”) jointly move this Court to enter an order substituting Asterias Biotherapeutics, Inc. (“Asterias”) in place of Geron as the party in interest as Plaintiff in the above-captioned matter pursuant to Fed. R. Civ. P. 25(c). Defendant ViaCyte has stipulated to the substitution of Asterias in place of Geron.

At the commencement of this lawsuit, Geron was the assignee of (1) U.S. Patent Application Serial No. 11/960,477 (the “477 Application”), listing Gregory J. Fisk and Margaret S. Inokuma as inventors, and (2) U.S. Patent Application Serial No. 12/543,875 (the “875 Application”), also listing Gregory J. Fisk and Margaret S. Inokuma as inventors. *See* Declaration of William G. Gaede in Support of Joint Stipulated Motion to Substitute, “Gaede Decl.,” at ¶¶ 2 and 5.

Geron entered into an Asset Contribution Agreement with BioTime, Inc. and BioTime Acquisition Corporation, now Asterias, providing for the divestiture of certain Geron stem cell assets, including the assignment of the intellectual property at issue (hereinafter, “Agreement”) in this action and the rights to prosecute this action. The Agreement was executed on January 4, 2013, and publicly announced on January 7, 2013 (the “Transaction”). *See* Gaede Decl., ¶ 8. *See* also Declaration of Thomas B. Okarma in Support of Joint Stipulated Motion to Substitute, “Okarma Decl.,” ¶ 3. As previously set forth in the Parties’ pleadings in this case, under the

Asset Contribution Agreement, the closing of the Transaction was contemplated to occur no later than September 30, 2013, and on that basis the Parties requested, and the Court ordered, that the matter be stayed until the later of (a) 30 days after the close of the Transaction or (b) 31 days after September 30, 2013. In the Parties' Stipulated Request for Order Enlarging Time filed on August 6, 2013, the Parties indicated that upon the closing of the Transaction, Asterias would be substituted in as Plaintiff in this action.

The Transaction closed on October 1, 2013, and was publicly announced on the same day. See Gaede Decl., ¶ 9. Asterias is now the owner of all right, title and interest in and to the Geron stem cell assets that are issue in the present case and is therefore the real party in interest in prosecuting this case. See Gaede Decl., ¶ 10 and Okarma Decl. ¶ 5. Geron no longer has any interest in the intellectual property at issue in this action. See Gaede Decl., ¶ 10.

Geron and ViaCyte therefore submit that due to the transfer of assets pursuant to the Agreement and the closure of the Transaction, Asterias should be substituted as the real party of interest as Plaintiff.

WHEREFORE, Geron and ViaCyte respectfully request that the Court grant their motion and substitute Asterias for Geron as Plaintiff in this action and dismiss Geron with prejudice as a party to this case.

SO STIPULATED this 1st day of October, 2013.

McDERMOTT WILL & EMERY LLP

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

By: /s/ William G. Gaede, III
William G. Gaede, III

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.

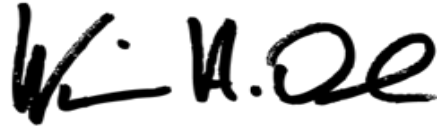
/s/ William G. Gaede, III
William G. Gaede, III

ORDER

After considering the Stipulated Motion of the parties, this Court hereby enters an order substituting Asterias Biotherapeutics, Inc. (“Asterias”) in place of Geron Corporation (“Geron”) as Plaintiff in this matter and directing that all pleadings, papers and other materials in this matter be served on Asterias as Plaintiff. Geron is hereby dismissed with prejudice as a party to this case.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: October 1, 2013



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