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7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 JEFFREY S. L. CHEAH, Individually and On) Case No. 16-cv-01253-WHO
11 Behalf of All Others Similarly Situated,)
Plaintiff,) CLASS ACTION
12 v.) **STIPULATION AND ORDER FOR THE**
13) **ADJOURNMENT OF THE INITIAL**
AFFYMETRIX, INC., JAMI DOVER) **CASE MANAGEMENT CONFERENCE**
14)
NACHTSHEIM, FRANK WITNEY, NELSON)
15)
C. CHAN, GARY S. GUTHART, RICCARDO)
16)
PIGLIUCCI, MERILEE RAINES, ROBERT H.)
17)
TRICE, THERMO FISHER SCIENTIFIC, INC.)
and WHITE BIRCH MERGER CO.,)
18)
Defendants.)

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1 IT IS HEREBY STIPULATED by and between PLAINTIFF JEFFREY S. L. CHEAH
2 (“Plaintiff”) and DEFENDANTS FRANK WITNEY, NELSON CHAN, GARY GUTHART,
3 JAMI NACHTSHEIM, RICCARDO PIGLIUCCI, MERILEE RAINES, ROBERT TRICE
4 (collectively, the “Individual Defendants”), and AFFYMETRIX, INC. (collectively, the
5 “Defendants”), (Plaintiff and Defendants are to be collectively referred to as the “Parties”), by and
6 through their attorneys of record, that good cause exists for the Court to accept the following
7 proposed schedule based on the following:
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9 WHEREAS, on March 14, 2016, Plaintiff filed a Class Action Complaint captioned *Cheah*
10 *v. Affymetrix, Inc., et al.*, Case No. 16-cv-01253-WHO (the “Complaint”) in the United States
11 District Court, Northern District of California for violations of Section 14(a) and 20(a) of the
12 Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78n(a), 78t(a), and SEC
13 Rule 14a-9, 17 C.F.R. 240.14a-9, and breaches of fiduciary duties in connection with the proposed
14 merger between Affymetrix, Inc. and Thermo Fisher Scientific Inc.;

15 WHEREAS, Defendants’ Answers to the Complaint are due on May 27, 2016;

16 WHEREAS, the Initial Case Management Conference in this matter is set for June 14,
17 2016;

18 WHEREAS, the Parties have reached a preliminary settlement agreement in the above-
19 referenced matter and are currently conducting confirmatory discovery.

20 WHEREAS, the Parties desire the adjournment of the deadline for any response to the
21 Complaint until after the conclusion of confirmatory discovery;

22 WHEREAS, the Parties desire the adjournment of the Initial Case Management
23 Conference until after the conclusion of confirmatory discovery;

1 NOW THEREFORE, IT IS HEREBY STIPULATED BY AND AMONG THE PARTIES
2 HERETO, THROUGH THEIR COUNSEL OF RECORD, AND SUBJECT TO APPROVAL OF
3 THE COURT, AS FOLLOWS:

4 1. The Initial Case Management Conference shall be adjourned to a date to be
5 determined by the Court; and

6 2. Defendants' deadline to answer, move to dismiss, or otherwise respond to the
7 Complaint shall be adjourned indefinitely, with the parties to confer on a new deadline in the event
8 that the settlement is not consummated.

9 Stipulated by and between the following:

10 DATED: May 13, 2016

WEISSLAW LLP

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12 *By: /s/ Leigh A. Parker*

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Los Angeles, CA 90025

Attorneys for Plaintiff Jeffrey S. L. Cheah

16 DATED: May 13, 2016

DAVIS POLK & WARDWELL, LLP

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18 *By: /s/ Neal A. Potischman*

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23 *Counsel for Defendants Affymetrix, Inc., Frank
24 Witney, Nelson Chan, Gary Guthart, Jami
25 Nachtsheim, Riccardo Pigliucci, Merilee
26 Raines, and Robert Trice*

Filer's Attestation

I, Leigh A. Parker, am the ECF user whose identification and password are being used to file this Stipulation and [Proposed] Order for the Adjournment of the Initial Case Management Conference. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that all signatories hereto concur in this filing.

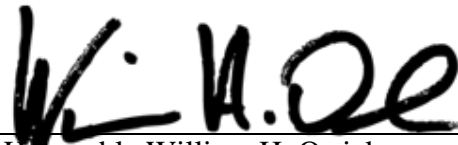
/s/ Leigh A. Parker

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IT IS HEREBY ORDERED that

1. The Initial Case Management Conference will be adjourned until August 23, 2016.
In the event that “confirmatory discovery” has not been completed by that date, the parties shall state in their Joint Case Management Statement the specifics concerning the discovery completed and the anticipated discovery that remains.
2. Defendants’ deadline to answer, move to dismiss, or otherwise respond to the Complaint shall be adjourned indefinitely, with the parties to confer on a new deadline in the event that the settlement is not consummated.

DATED: May 16, 2016



Honorable William H. Orrick
United States District Judge