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BOSTON SCIENTIFIC CORPORATION

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17 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
18 **OAKLAND DIVISION**

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20 THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA, a California  
21 Corporation,

22 Plaintiff,

23 v.

24 BOSTON SCIENTIFIC CORPORATION,  
a Delaware Corporation,

25 Defendant.

Case No. 4:16-cv-06266-YGR  
**ORDER GRANTING**  
**STIPULATION TO EXTEND DISCOVERY**  
**DEADLINES; ~~[PROPOSED]~~ ORDER**

**STIPULATION**

Pursuant to Local Rules 6-1(b), 6-2, and 7-12, Plaintiff The Regents of the University of California (“The Regents”) and Defendant Boston Scientific Corporation (“BSC”), respectfully stipulate and jointly request that the Court issue an Order extending discovery deadlines by approximately ten weeks. The parties submit that good cause exists for this stipulation for the following reasons and those set forth in the Declaration of Mark T. Jansen in support of Stipulation (“Jansen Decl.”), filed herewith:

1. The Court granted the parties’ stipulated case management schedule on February 17, 2017. D.I. 48.

2. On May 2, 2017, at the hearing and technology tutorial concerning BSC and related case defendant St. Jude Medical, LLC’s motions to dismiss, the Court vacated all dates after June 1, 2017 and set forth the following case schedule (see D.I. 60):

<b>Event</b>	<b>Current Deadline</b>
Close of Fact Discovery	March 2, 2018
Initial Expert Reports Due	April 6, 2018
Rebuttal Expert Reports Due	May 18, 2018
Close of Expert Discovery	June 8, 2018
Last Day to File Summary Judgment Motions	July 10, 2018
Jury Trial	February 4, 2019

3. During the hearing on May 2, 2017, the Court expressed its intent that The Regents’ cases against related defendants St. Jude Medical, LLC and AtriCure Inc. proceed on the same case and trial schedule. (The AtriCure case has since been settled and was dismissed.)

4. The Court also reiterated the revised case schedule in its December 20, 2017 Order in related case, The Regents of the University of California v. St. Jude Medical, LLC, Case No. 16-cv-06210-YGR (“SJM Case”), D.I. 81 (Order Granting Revised Stipulation Selecting ADR Process; Setting Pre-Trial Dates). In addition, the Court set the following dates in the SJM Case (see id.):

Event	Current Deadline
Compliance Hearing re: Pretrial Instructions	December 7, 2018
Joint Pretrial Conference Statement	December 21, 2018
Pretrial Conference	January 18, 2019

5. On Monday, January 22, 2018, the parties filed a joint stipulation requesting that the Court continue the trial date to accommodate St. Jude Medical, LLC’s counsel’s trial conflict and to extend all pre-trial dates. D.I. 77. The Court denied the stipulation finding there was no good cause to continue the trial date from February 4, 2019 to April 1, 2019. D.I. 78. However, the Court indicated that it would consider a request to extend non-trial related deadlines, provided that the parties understand “that moving such deadlines may mean that they may have to dual-track motion practice and trial preparation.” Id.

6. The parties file the instant stipulation seeking an extension of the non-trial related deadlines and understand that doing so may result in dispositive motion practice coinciding with pre-trial preparation. The primary reasons for the extension of the non-trial related deadlines, including especially the fact discovery deadline, are to (a) avoid motion practice on discovery and allow the parties to complete discovery already in progress, including taking depositions after completion of document production, and (b) allow the parties some extra time to focus on preparing for mediation.

7. The parties have been engaging in discovery since April 2017 (even though the pleadings did not close until June 6, 2017 (D.I. 67)) and are in the process of meeting and conferring regarding the production of documents, including production of ESI for an agreed up-to ten custodians, and the scheduling of depositions. Jansen Decl. at ¶ 4. Both parties have produced documents, but their document productions are not complete, despite both parties making voluminous productions of documents. Id. In addition, there are other outstanding issues, including serious HIPAA implications, that the parties are attempting to cooperatively resolve. Id. The parties have also served deposition notices but are having difficulty scheduling

1 depositions in light of the upcoming mediation and witness availabilities. Id. Counsel for the  
2 parties have met and conferred many times in December 2017 and January 2018 regarding these  
3 issues and are trying to resolve all issues without discovery motion practice. Id. The parties  
4 estimate that an additional ten weeks are needed to complete their discovery in this case. Id.

5 8. The parties have met once informally to discuss settlement and are continuing to  
6 engage in settlement discussions. Id. at ¶ 5. In particular, pursuant to the Court’s Order dated  
7 August 1, 2017, the parties have scheduled mediation at JAMS before retired Magistrate Judge  
8 Infante to take place on February 21, 2018. See D.I. 71, 72. The parties would prefer to limit  
9 discovery and expert expenses as much as possible before mediation. Jansen Decl., ¶ 5.

10 9. A continuance of dates requested herein will permit the parties to meaningfully  
11 engage in the mediation process and will permit time to complete remaining discovery necessary  
12 after mediation in the event that the parties do not reach an agreement at the mediation.

13 10. For these reasons, the parties therefore request that fact discovery and all  
14 subsequent non-trial related deadlines be extended. The parties respectfully request that this  
15 Court grant this stipulation to continue all previously-set non-trial related deadlines (as contained  
16 in D.I. 60, SJM Case D.I. 81) as follows:<sup>1</sup>

<b>Event</b>	<b>Current Deadline</b>	<b>Extended Deadline</b>
Close of Fact Discovery	March 2, 2018	May 11, 2018
Initial Expert Reports Due	April 6, 2018	June 1, 2018
Rebuttal Expert Reports Due	May 18, 2018	July 13, 2018
Close of Expert Discovery	June 8, 2018	August 31, 2018
Last Day to File Summary Judgment Motions	July 10, 2018	September 14, 2018
Compliance Hearing re: Pretrial Instructions	December 7, 2018	December 7, 2018
Joint Pretrial Conference Statement	December 21, 2018	December 21, 2018
Pretrial Conference	January 18, 2019	January 18, 2019

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27 <sup>1</sup> Pursuant to the Court’s order, the parties recognize “that moving such deadlines may mean that  
28 they may have to dual-track motion practice and trial preparation.” D.I. 78.

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Jury Trial	February 4, 2019	February 4, 2019
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**IT IS SO STIPULATED.**

Respectfully submitted,

DATED: February 2, 2018

CROWELL & MORING LLP

By: /s/ Mark T. Jansen

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DATED: February 2, 2018

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1 **~~PROPOSED~~ ORDER**

2 GOOD CAUSE APPEARING THEREFORE, and the parties' having stipulated to the  
3 same, the parties' stipulation is hereby GRANTED. The Court orders the following deadlines:

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Event	Current Deadline	Extended Deadline
Close of Fact Discovery	March 2, 2018	May 11, 2018
Initial Expert Reports Due	April 6, 2018	June 1, 2018
Rebuttal Expert Reports Due	May 18, 2018	July 13, 2018
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15 **IT IS SO ORDERED.**

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17 DATED: February 8, 2018

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21 THE HONORABLE YVONNE GONZALEZ ROGERS  
22 UNITED STATES DISTRICT JUDGE  
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