

1 [see signature page for attorney names]

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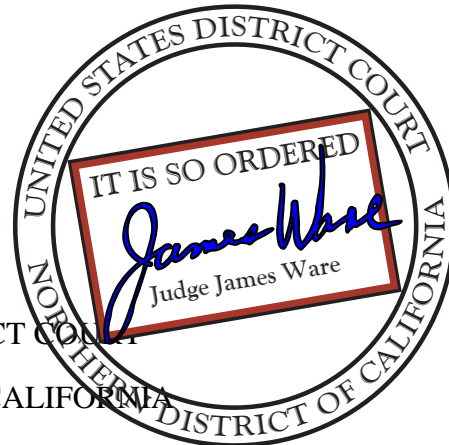
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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

9 BOSTON SCIENTIFIC CORP. and  
10 TARGET THERAPEUTICS, INC.,

11 Plaintiffs,

12 v.

13 CORDIS CORPORATION,

14 Defendant.

Case No.: C02-1474-JW

**STIPULATION AND [PROPOSED]**  
**ORDER TO SHORTEN TIME FOR**  
**BRIEFING AND TO SET HEARINGS**  
**FOR PLAINTIFFS' MOTIONS TO JOIN**  
**THE REGENTS OF THE UNIVERSITY**  
**OF CALIFORNIA AS NOMINAL**  
**PLAINTIFF AND TO STRIKE DEFENSES**  
**BASED ON 35 U.S.C. § 112**

16

Pursuant to Civil Local Rules 6-1, 6-2 and 7-12, Plaintiffs Boston Scientific Corporation (“BSC”) and Target Therapeutics, Inc. (“Target”) (together “Plaintiffs”), hereby request an order shortening time for briefing and setting for hearing on February 24, 2009 Plaintiffs’ motion to join the Regents of the University of California (“The Regents”) as nominal plaintiff and motion to strike defendant Cordis Corporation’s (“Cordis”) defenses based on 35 U.S.C. § 112. Plaintiffs seek such relief because adherence to the briefing schedule established by the Civil Local Rules would deny Plaintiffs any relief and deprive the Court an opportunity to hear the issues presented by the motions prior to trial.

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On February 9, 2009, the Court set the trial schedule to commence with jury selection on March 3, 2009, with a hearing regarding additional issues to be resolved prior to trial on February 24, 2009 (D.I. 1338, 1339). This limited time frame would not allow the parties to brief the joinder and Section 112 issues under the minimum time periods proscribed by the Civil Local Rules.

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**STIPULATION AND [PROPOSED] ORDER TO SHORTEN TIME FOR BRIEFING AND TO SET HEARINGS FOR PLAINTIFFS' MOTIONS TO JOIN THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AS NOMINAL PLAINTIFF AND TO STRIKE DEFENSES BASED ON 35 U.S.C. § 112- CASE NO. C 02 1474 JW**

1 Therefore, Plaintiffs respectfully request the following stipulated expedited briefing schedule  
2 for their motions to join The Regents as a nominal plaintiff and to strike Cordis's defenses based on  
3 35 U.S.C. § 112:

4 (1) Plaintiffs will file and serve their motions no later than Friday, February 13, 2009.

5 (2) Cordis will file and serve its opposition, if any, no later than one calendar week from  
6 service of Plaintiffs' motion to which the opposition responds, or Friday, February 20, 2009,  
7 whichever is later.

8 (3) Plaintiffs will file and serve their replies, if any, no later than Monday, February 23,  
9 2009.

10 Plaintiffs further request that these motions be set for the hearing scheduled for 9:00 a.m.,  
11 February 24, 2009.

12 Counsel for Plaintiffs has conferred with counsel for Cordis. Counsel for Cordis believes that  
13 any motion to strike Cordis' Section 112 defenses is untimely and that no such motion should be filed  
14 absent leave of Court.<sup>1</sup> Additionally, Cordis intends to oppose Plaintiffs' motion to join the Regents  
15 and, assuming leave to file a motion to strike is granted, intends to oppose that motion as well. To the  
16 extent the Court allows Plaintiffs to file the motions referred to herein, counsel for Cordis will not  
17 oppose the proposed schedule set forth herein. See Declaration of Robert D. Carroll ¶ 5.

### 18 CONCLUSION

19 For all the foregoing reasons, and pursuant to stipulation, Plaintiffs respectfully requests an  
20 order shortening time for briefing as set forth in the accompanying proposed order and setting for  
21 hearing on February 24, 2009 plaintiffs' motion to join The Regents as nominal plaintiff and motion  
22 to strike Cordis's defenses based on 35 U.S.C. § 112.

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27 <sup>1</sup> It is BSC and Target's position that a motion to strike defenses based on 35 U.S.C. § 112 is timely and that no  
preliminary motion seeking leave of court is necessary.

1 Dated: February 12, 2009

2 By: /s/Michael G. Strapp  
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21 Attorneys for Plaintiffs  
22 BOSTON SCIENTIFIC CORP. and  
23 TARGET THERAPEUTICS, INC.

24 Dated: February 12, 2009

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Attorneys for Defendant  
CORDIS NEUROVASCULAR, INC.

1 **ATTESTATION OF SIGNATURE**

2 **(N.D. Cal. General Order No. 45)**

3 Pursuant to N.D. Cal. General Order No. 45 § X(B), I hereby attest under penalty of perjury  
4 that concurrence in the filing of this document has been obtained by all the signatories.

5  
6 Dated: February 12, 2009

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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION

4 BOSTON SCIENTIFIC CORP. and  
5 TARGET THERAPEUTICS, INC.,

6 Plaintiffs,

7 vs.

8 CORDIS CORPORATION,

9 Defendants.

Case No.: C02-1474-JW

*James Ware*  
[PROPOSED] ORDER GRANTING  
STIPULATED MOTION TO SHORTEN TIME  
FOR HEARING ON PLAINTIFFS' MOTIONS

10  
11 Pursuant to stipulation, IT IS SO ORDERED that plaintiffs' motion to join the Regents of the  
12 University of California ("The Regents") as nominal plaintiff and motion to strike defendant Cordis  
13 Corporation's ("Cordis") defenses based on 35 U.S.C. § 112 are set for expedited briefing as follows:

- 14 (1) Plaintiffs shall file and serve their motions no later than Friday, February 13, 2009.  
15 (2) Cordis will file and serve its oppositions, if any, no later than one calendar week from  
16 service of Plaintiffs' motion to which the opposition responds, or Friday, February 20, 2009,  
17 whichever is later.  
18 (3) Plaintiffs shall file their replies, if any, no later than Monday, February 23, 2009.

19 Pursuant to stipulation, IT IS FURTHER ORDERED THAT, the motions will be heard at the  
20 hearing scheduled for 9:00 a.m., February 24, 2009.

21  
22 Dated: February 19, 2009

*James Ware*  
\_\_\_\_\_  
The Honorable James Ware  
United States District Judge  
Northern District of California