

1 [COUNSEL LISTED ON SIGNATURE PAGE]

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**\*E-FILED - 10/14/08\***

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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SAN JOSE DIVISION

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HOLOGIC, INC., CYTYC CORPORATION,  
and HOLOGIC L.P.,

Case No. C08 00133 RMW (RS)

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Plaintiffs,

**JOINT STIPULATED ADMINISTRATIVE  
MOTION PURSUANT TO CIVIL L.R. 7-11  
FOR LEAVE TO POSTPONE HEARING  
ON DEFENDANT'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT OF  
NON-INFRINGEMENT UNTIL AFTER  
ISSUANCE OF CLAIM CONSTRUCTION  
ORDER AND [ ] ORDER  
GRANTING PARTIES' STIPULATED  
MOTION**

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vs.

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SENORX, INC.,

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Defendant.

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Markman Hearing

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Date: October 15, 2008

Time: To Be Set

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Room: Courtroom 6, 4th Floor

Judge: Hon. Ronald M. Whyte

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AND RELATED COUNTERCLAIMS.

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Plaintiffs Hologic, Inc., Cytyc Corporation, and Hologic L.P. and Defendant SenoRx, Inc.

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hereby jointly move this Court pursuant to Civil Local Rule 7-11 to postpone the hearing on Defendant

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SenoRx Inc.'s Motion For Partial Summary Judgment of Non-Infringement ('813 Patent, Claims 11 &

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12; '204 Patent, Claims 4 & 17; and '142 Patent Claim 6) (Dkt. #131) until after issuance of the claim

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Stip. & [ Order Granting Leave to Postpone  
Hearing on Def.'s MSJ of Non-Infringement  
Case No. C08 00133 RMW (RS)

1 construction order. The parties believe that a postponed hearing is warranted because construction of  
2 claim terms addressed in SenoRx's motion may render moot or allow the parties to agree on some or  
3 all of the issues within the motion for summary judgment.

4 For this reason, the parties respectfully request that any hearing on Defendant's Motion for  
5 Partial Summary Judgment of Non-Infringement (Dkt. #131) be postponed until after the Court issues  
6 a claim construction order in this case.<sup>1</sup>

7 Respectfully submitted,

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Attorneys for Defendant  
22 SENORX, INC.

23  
24  
25 <sup>1</sup> This Motion pertains only to SenoRx's Motion For Partial Summary Judgment of Non-Infringement  
26 ('813 Patent, Claims 11 & 12; '204 Patent, Claims 4 & 17; and '142 Patent Claim 6) (Dkt. #131). The  
27 parties request that SenoRx's Motion for Partial Summary Judgment of Invalidity ('142 Patent, Claims  
1 & 8) (Dkt. #133) be heard as scheduled during the claim construction hearing.

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

2 DATED: October 14, 2008

*Ronald M. Whyte*  
The Honorable Ronald M. Whyte  
United States District Court Judge

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**CERTIFICATE OF SERVICE**

I am employed in the County of San Mateo, State of California. I am over the age of 18 and not a party to the within action. My business address is 1950 University Avenue, 4th Floor, East Palo Alto, California 94303.

On October 2, 2008, I served on the interested parties in said action the within:

**JOINT STIPULATED ADMINISTRATIVE MOTION PURSUANT TO CIVIL L.R. 7-11 FOR LEAVE TO POSTPONE HEARING ON DEFENDANT’S MOTION FOR PARTIAL SUMMARY JUDGMENT OF NON-INFRINGEMENT UNTIL AFTER ISSUANCE OF CLAIM CONSTRUCTION ORDER AND [PROPOSED] ORDER GRANTING PARTIES’ STIPULATED MOTION**

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(EMAIL/ELECTRONIC TRANSMISSION) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the submission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on October 2, 2008, at East Palo Alto, California.

Sonya Schwab  
\_\_\_\_\_  
(Type or print name)

\_\_\_\_\_  
(Signature)