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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Abaxis, Inc.)	Case No.: 10-CV-2840-LHK
)	
Plaintiff-Counterdefendant,)	
v.)	CASE MANAGEMENT ORDER
Cepheid,)	
)	
Defendant-Counterclaimant.)	
)	
)	
)	
)	

Clerk: Martha Parker Brown	Plaintiff Attorneys: Ricardo Rodriguez, Lam Nguyen
Reporter: Lee-Anne Shortridge	Defendant Attorneys: Steven Carlson, Rebecca Grant, Jonathan Singer

A further case management conference was held on July 19, 2012.

The Court held a hearing on Abaxis’s motion for relief from Magistrate Judge Lloyd’s April 9, 2012 order denying Abaxis’s March 1, 2012 motion for leave to amend its infringement contentions, including its willfulness contentions. In the fall of 2011, the parties discussed the possibility of mutually granting each other leave to amend their respective infringement and invalidity contentions, but did not reach an agreement. In January 2012, Abaxis stipulated to leave for Cepheid to amend its invalidity contentions based on discovery that Abaxis produced on November 11, 2011, December 19, 2011, and January 4, 2012. However, Cepheid did not reciprocate when Abaxis on February 14, 2012 requested a stipulation as to Abaxis’s infringement contentions. The Court affirmed Judge Lloyd’s order denying Abaxis leave to amend its infringement contentions with discovery that Cepheid produced before February 1, 2012, but found clear error as to discovery Cepheid produced on or after February 1, 2012, including after the February 16, 2012 fact discovery cutoff. Cepheid should not be rewarded for its late production of discovery that even Cepheid believed was responsive to earlier Abaxis’s discovery requests. Accordingly, the Court granted Abaxis leave to amend its infringement contentions, including its willfulness contentions, with discovery that Cepheid produced on or after February 1, 2012. This discovery also includes information about products produced by Cepheid’s Generation 1 “Beadulator” process.

The Court set the following case schedule:

DEADLINE TO FILE JOINT STATUS REPORT REGARDING POTENTIAL JURY TRIAL
START DATE OF SEPTEMBER 21, 2012 is July 26, 2012.

DEADLINE TO EXCHANGE DRAFTS OF JOINT PRETRIAL STATEMENTS AND
MOTIONS IN LIMINE is August 7, 2012.

1 DEADLINE TO MEET AND CONFER REGARDING SETTLEMENT, JOINT PRETRIAL
2 STATEMENT, AND EXCHANGE OF PRETRIAL MATERIALS is August 8, 2012.

3 DEADLINE TO LODGE AND SERVE JOINT PRETRIAL STATEMENT is August 15, 2012.
4 Joint Pretrial Statement is limited to 25 pages.

5 DEADLINE TO EXCHANGE EXHIBITS, SUMMARIES, CHARTS, AND DIAGRAMS TO BE
6 USED AT TRIAL is August 20, 2012.

7 DEADLINE TO FILE MOTIONS IN LIMINE is August 20, 2012.
8 Each party is LIMITED to 20 pages and up to 7 motions in limine.

9 DEADLINE TO FILE OPPOSITIONS TO MOTIONS IN LIMINE is August 22, 2012.

10 DEADLINE TO FILE JURY VOIR DIRE QUESTIONS AND JOINT STIPULATED AND
11 DISPUTED JURY INSTRUCTIONS AND VERDICT FORM is August 22, 2012.

12 DEADLINE TO MAKE PRETRIAL DISCLOSURES is August 24, 2012.

13 PRETRIAL CONFERENCE AND HEARING ON WILLFULNESS MOTION is August 29, 2012,
14 at 2:00 p.m.

15 DEADLINE TO FILE DEPOSITION AND DISCOVERY DESIGNATIONS is September 10,
16 2012.

17 DEADLINE FOR DEFENDING PARTY TO SERVE OFFER OF JUDGMENT (PURSUANT TO
18 FED. R. CIV. PROC. 68) is September 10, 2012.

19 DEADLINE TO FILE OBJECTIONS AND COUNTERDESIGNATIONS TO DEPOSITION
20 TESTIMONY is September 14, 2012.

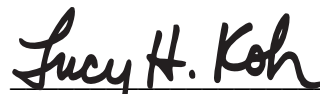
21 DEADLINE FOR PARTIES TO DELIVER 3 SETS OF PREMARKED EXHIBITS IN BINDERS
22 TO COURTROOM DEPUTY is September 17, 2012.

23 JURY TRIAL DATES are September 24, September 25, September 28, October 1, October 2, and
24 October 5, 2012 at 9 a.m. in courtroom 8, 4th floor.

25 The jury shall have 8 members. Each party is limited to 15 minutes of attorney voir dire and three
26 preemptory challenges. During trial, each party is limited to 15 hours, including up to 45 minutes
27 of opening statement.

28 **IT IS SO ORDERED.**

Dated: July 20, 2012



LUCY H. KOH
United States District Judge