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

4 LIFESCAN SCOTLAND, LTD.,

5 Plaintiff,

6 v.

7 SHASTA TECHNOLOGIES, LLC,
8 INSTACARE CORP., PHARMATECH
9 SOLUTIONS, INC., and CONDUCTIVE
TECHNOLOGIES, INC.,

10 Defendants.

Case No. CV11-04494-EJD (PSG)

**STIPULATION AND ~~PROPOSED~~
ORDER EXTENDING DATES IN CASE
MANAGEMENT ORDER**

[PATENT L.R. 1-3, 3-3, 3-4; CIVIL L.R. 6-1]

11 WHEREAS, the parties dispute whether Defendants complied with the
12 requirements of Patent L.R. 3-3 and 3-4 when they served their Invalidation Contentions; and

13 WHEREAS, the parties desire to resolve that disagreement and to extend the
14 dates for other proceedings in this case;

15 IT IS HEREBY STIPULATED AND AGREED by and between counsel for
16 Plaintiff LifeScan Scotland, Ltd. ("Plaintiff") and Defendants Shasta Technologies, LLC,
17 InstaCare Corp., PharmaTech Solutions, Inc., and Conductive Technologies, Inc.
18 ("Defendants") (each individually a "Party" and collectively the "Parties") that:

19 A. No later than May 29, 2012, Defendants shall serve Supplemental
20 Invalidation Contentions that comply with Patent Local Rules 3-3 and 3-4. These Supplemental
21 Invalidation Contentions shall, *inter alia*:

- 22 1. Include "chart[s] identifying where specifically in each alleged
23 item of the prior art [that Defendants rely on in their
24 Supplemental Invalidation Contentions] each limitation of the
25 asserted claims is found," as required by Patent L.R. 3-3(c).
26 2. Include an "explanation of why the prior art renders the asserted
27 claim[s] obvious, including an identification of any combinations
28

1 of prior art showing obviousness," as required by Patent L.R. 3-
2 3(c).

3 3. Identify any prior art relied upon under 35 U.S. § 102(b) by
4 "specifying the item offered for sale or publicly used or known,
5 providing the name, and ... identif[y]ing] the person or entity
6 which made the use or which made and received the offer, or the
7 person or entity which made the information known or to whom
8 it was made known," as required by Patent L.R. 3-3(a).

9 4. Identify "[a]ny grounds of invalidity based on 35 U.S.C. § 101,
10 indefiniteness under 35 U.S.C. § 112(2) or enablement or written
11 description under 35 U.S.C. § 112(1) of any of the asserted
12 claims," as required by Patent L.R. 3-3(d), including an
13 identification of particular claim limitations that do not meet the
14 requirements of 35 U.S.C. §§ 101, 112(2) or 112(1).

15 B. No later than May 29, 2012, Defendants shall produce:

16 1. "Source code, specifications, schematics, flow charts, artwork,
17 formulas, or other documentation sufficient to show the operation
18 of any aspects or elements of an Accused Instrumentality
19 identified by the patent claimant in its Patent L.R. 3-1(c) chart,"
20 as required by Patent L.R. 3-4(a).

21 2. "A copy or sample of the prior art identified pursuant to Patent
22 L.R. 3-3(a) which does not appear in the file history of the
23 patent(s) at issue," and "[t]o the extent any such item is not in
24 English, an English translation of the portion(s) relied upon," as
25 required by Patent L.R. 3-4(b).

1 C. No later than thirty-five (35) days after Defendants comply with
2 paragraphs (A) and (B) above, Plaintiff shall serve Supplemental Infringement Contentions that
3 comply with Patent L.R. 3-1.

4 D. The Parties shall exchange Proposed Terms for Construction under
5 Patent L.R. 4-1 no later than 14 days after the service of Supplemental Infringement
6 Contentions by Plaintiff.

7 E. The Parties shall exchange Preliminary Claim Constructions and
8 Extrinsic Evidence under Patent L.R. 4-2 no later than 21 days after the service of Proposed
9 Terms for Construction under the preceding paragraph.

10 F. The Parties shall complete and file a Joint Claim Construction and
11 Prehearing Statement under Patent L.R. 4-3 not later than 60 days after the service of
12 Supplemental Infringement Contentions.

13 G. Claim construction discovery shall be completed not later than 30 days
14 after the service and filing of the Joint Claim Construction and Prehearing Statement.

15 H. Plaintiff's opening claim construction brief and any supporting evidence
16 shall be filed no later than 45 days after the Joint Claim Construction and Prehearing Statement
17 is served and filed; Defendants' responsive claim construction brief(s) and any supporting
18 evidence shall be filed no later than 14 days after the opening claim construction brief is served
19 and filed; Plaintiff's reply claim construction brief and any evidence directly rebutting the
20 supporting evidence contained in Defendants' response shall be filed no later than 7 days after
21 the Responsive Claim Construction Brief is served and filed.

22 I. All dates in the Case Management Order shall be modified consistent
23 with this Stipulation and [Proposed] Order.

1 Dated: May 8, 2012

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25 PURSUANT TO STIPULATION, IT IS SO ORDERED.

26 

27 EDWARD J. DAVILA
28 U.S. District Judge

Dated: May 9, 2012

The Interim Case Management Conference and Joint Statement filing date remain as presently scheduled for 7/6/2012 and 6/26/2012 respectively.