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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 LIFE TECHNOLOGIES CORPORATION;
10 MOLECULAR PROBES, INC.; and THE
11 REGENTS OF THE UNIVERSITY OF
12 CALIFORNIA,

Plaintiffs,

13 vs.

14 EBIOSCIENCE, INC.,

15 Defendant.
16

CASE NO. 10-cv-2127 - IEG (NLS)

**ORDER GRANTING JOINT
MOTION FOR LEAVE TO FILE
AMENDED PRELIMINARY
INFRINGEMENT AND
INVALIDITY CONTENTIONS**

[Doc. No. 94]

17 Before the Court is the parties' joint motion for leave to file amended preliminary
18 infringement and invalidity contentions. [Doc. No. 94.] Though such amendment is disfavored, it
19 may be allowed "upon a showing of good cause." *See* Southern District of California Patent Local
20 Rule 3.7; *see also CBS Interactive, Inc. v. Etilize, Inc.*, 257 F.R.D. 195, 201 (N.D. Cal. 2009) (the
21 "good cause" requirement disallows such contentions "from becoming moving targets throughout
22 the lawsuit."). The parties claim amendment is justified here to reflect the results of the United
23 States Patent and Trademark Office's reexamination of two of the patents-in-suit, United States
24 Patent Nos. 6,927,069 and 6,423,551. [See Doc. No. 94 at 2.] The parties further submit that their
25 amendments "will not result in any new substantive contentions," nor "introduce any new claims
26 or claim elements," nor "assert any new prior art." [*Id.*] Thus, to this limited extent, the Court
27 finds good cause shown and hereby **GRANTS** the parties' motion as follows:

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- 2 1. The parties shall file amended preliminary infringement and invalidity contentions
3 no later than Friday, October 12, 2012;
- 4 2. The parties' amended contentions shall not contain any new substantive
5 contentions, claims or claim elements, or prior art.

6 **IT IS SO ORDERED.**

7 **DATED:** October 5, 2012



8 **IRMA E. GONZALEZ**
9 **United States District Judge**