

Exhibit 1

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THERASENSE, INC.,
Plaintiff,

v.

BECTON, DICKINSON AND COMPANY,
Defendant.

No. C 04-02123 WHA

Consolidated with

No. C 04-03327 WHA
No. C 04-03732 WHA
No. C 05-03117 WHA

AND CONSOLIDATED CASES.

FINAL PRETRIAL ORDER

FOR GOOD CAUSE and after a further final pretrial conference, the Court issues the following final pretrial order:

- The trial for the '890 patent shall begin on **JULY 14, 2008**, at **7:30 A.M.**, and shall continue until completed on the schedule discussed at the telephone conference. The entire case will be tried to a ten-person jury unless the Court determines that the inequitable conduct issue must be decided by the Court. The issues to be tried shall be those set forth in the joint proposed pretrial order except to the extent modified by order *in limine*. This final pretrial order supersedes all the complaint, answer and any counterclaims, cross-claims or third-party complaints, *i.e.*, only the issues expressly identified for trial remain in the case.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Except for good cause, each party is limited to the witnesses and exhibits disclosed in the joint proposed final pretrial order less any excluded or limited by an order *in limine*. Materials or witnesses used solely for impeachment need not be disclosed and may be used, subject to the rules of evidence.

3. The stipulations of facts set forth in the joint proposed final pretrial order are APPROVED AND BINDING on all parties.


4. Each side shall have EIGHTEEN HOURS to examine witnesses (counting direct examination, cross-examination, re-direct examination, re-cross examination, etc.). This time may be enlarged upon a showing that a party has used their time efficiently *and* that an injustice would otherwise occur. Opening statements and closing arguments shall not count against the limit. Each side will be given FORTY MINUTES for opening statements. Time limits for the closing arguments shall be set in due course.

5. Each party may file two motions *in limine* ideally six to eight pages in length. Oppositions to such motions must be filed one week after the motion is filed and should ideally be the same length as the motion. Reply briefs are discouraged but may be filed two court days after the opposition.

6. The parties shall follow the Court's current *Guidelines for Trial and Final Pretrial Conference*, separately provided and available on the Internet at <http://www.cand.uscourts.gov>, which guidelines are incorporated as part of this order.

IT IS SO ORDERED.

Dated: July 1, 2008.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE