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AFFYMETRIX, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

AGILENT TECHNOLOGIES, INC.,

Plaintiff,

v.

AFFYMETRIX, INC.,

Defendant.

Civil Case No. C06 05958 JW PVT

**STIPULATION AND [Proposed]
 ORDER REGARDING SCHEDULE**

WHEREAS the Court held a Case Management Conference on January 8, 2007 and issued an Order following Case Management Conference dated January 9, 2007.

WHEREAS Plaintiff Agilent Technologies, Inc. ("Agilent") and Defendant Affymetrix, Inc. ("Affymetrix") have met and conferred and jointly propose the following agreed schedule for claim construction briefing and other matters relating to this action as discussed at the Case Management Conference:

Event	Due date
Parties to exchange "Proposed Terms and Claim Elements for Construction"	April 6, 2007
Meet and confer regarding "Joint Claim Construction and Prehearing Statement"	April 13, 2007
Parties to exchange "Preliminary Claim Constructions and Preliminary Identification of Extrinsic Evidence"	May 4, 2007
Parties to file a "Joint Statement of the History of the Case" (per Order following Case Management Conference dated January 9, 2007)	May 11, 2007
Further meet and confer regarding "Joint Claim Construction and Prehearing Statement"	May 18, 2007
Parties to file Cross-motions regarding (i) the standard of review in this case; and (ii) whether a bench trial or a jury trial is appropriate	May 23, 2007
Parties to file "Joint Claim Construction and Prehearing Statement"	June 1, 2007
Parties to file "Joint Case Management Statement" (per Order following Case Management Conference dated January 9, 2007)	June 1, 2007
Parties to file Responses to Cross-motions regarding (i) the standard of review in this case; and (ii) whether a bench trial or a jury trial is appropriate	June 6, 2007
Interim Case Management Conference (per Order following Case Management Conference dated January 9, 2007)	June 11, 2007
Parties file Opening Claim Construction Briefs	June 15, 2007
Parties file Responsive Claim Construction Briefs	June 29, 2007
Technology Tutorial / Hearing on parties Cross-motions regarding (i) the standard of review in this case; and (ii) whether a bench trial or a jury trial is appropriate (per Order following Case Management Conference dated January 9, 2007)	July 13, 2007
Claim Construction Hearing (per Order following Case Management Conference dated January 9, 2007)	July 20, 2007

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1 The parties have agreed to simultaneous briefing of the claim construction briefs to
2 resolve the parties' dispute over which party should submit the opening brief. After several meet
3 and confers on the issue, the parties were unable to agree upon who should brief first. Because of
4 the unique nature of this § 146 action, there is no precedent that the parties are aware of to guide
5 the briefing procedures. Thus, to avoid disturbing the Court with this dispute, the parties have
6 agreed to simultaneous briefing, and have agreed to limit the briefings to openings and responses
7 to minimize the burden on the Court. Alternatively, the parties would welcome any guidance
8 from the Court regarding the best way for the parties to resolve this issue.

9 NOW THEREFORE, the parties, through their respective counsel, hereby stipulate to and
10 request that the Court adopt the parties' stipulation as the order of this Court.

11 Dated: April 5, 2007

12 FINNEGAN, HENDERSON, FARABOW,
13 GARRETT & DUNNER, L.L.P.

14 By: /s/ Tina E. Hulse
Tina E. Hulse

15 THOMAS H. JENKINS
16 TINA E. HULSE
Finnegan, Henderson, Farabow,
17 Garrett & Dunner, LLP

18 Attorneys for Plaintiff
AGILENT TECHNOLOGIES, INC.

19 AFFYMETRIX, INC.

20 By: /s/ Stephen C. Holmes
21 Stephen C. Holmes

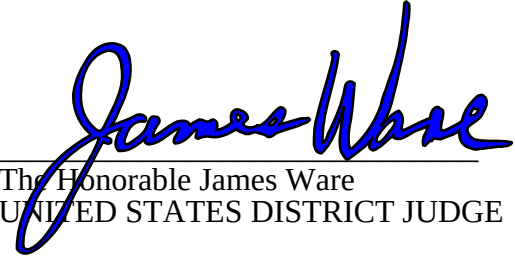
22 MICHAEL J. MALECEK
23 STEPHEN C. HOLMES
Affymetrix Litigation Unit
24 Affymetrix, Inc.

25 Attorneys for Defendant
AFFYMETRIX, INC.

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2 ~~[PROPOSED]~~ ORDER

3 PURSUANT TO STIPULATION, IT IS SO ORDERED.

4 Dated: 4/6/2007

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7 The Honorable James Ware
8 UNITED STATES DISTRICT JUDGE
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CERTIFICATION

I, Stephen C. Holmes, am the ECF User whose identification and password are being used to file the **STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULE**. In compliance with General Order 45.X.B, I hereby attest that all parties have concurred in this filing.

DATED: April 5, 2007

MICHAEL J. MALECEK
STEPHEN C. HOLMES
PETER E. ROOT
DANIEL R. REED
ANDREA L. GROSS
AFFYMETRIX, INC.

By: /s/ Stephen C. Holmes
Stephen C. Holmes

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AFFYMETRIX, INC.