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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION
18

19 AGILENT TECHNOLOGIES, INC.

20 Plaintiff,

21 v.

22 AFFYMETRIX, INC.

23 Defendant.
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CASE NO. C 06-05958 JW (PVT)

STIPULATION AND [PROPOSED]
ORDER ADMITTING THE RECORD
FROM INTERFERENCE NO. 105,285
IN THIS CASE, PURSUANT TO
35 U.S.C. § 146

1 WHEREAS this case is an appeal under 35 U.S.C. § 146 by Plaintiff Agilent Technologies,
 2 Inc. (“Agilent”) from the Decision of the United States Patent and Trademark Office Board of Patent
 3 Appeals and Interferences (“the Board”) on June 28, 2006, in Patent Interference No. 105,285 (“the
 4 Interference”).

5 WHEREAS the parties have agreed and stipulated to jointly submit the record from the
 6 Interference, pursuant to 35 U.S.C. § 146, which provides in relevant part:

7 In such suits the record in the Patent and Trademark Office shall be admitted on
 8 motion of either party upon the terms and conditions as to costs, expenses, and the
 9 further cross-examination of the witnesses as the court imposes, without prejudice to
 10 the right of the parties to take further testimony. The testimony and exhibits of the
 record in the Patent and Trademark Office when admitted shall have the same effect
 as if originally taken and produced in the suit.

11 35 U.S.C. § 146.

12 WHEREAS the record to be submitted by the parties includes the parties’ motions and
 13 supporting briefs and exhibits, cases cited by the parties, other papers, notices and orders from the
 14 Interference, transcripts of hearings before the Board in the Interference and cases cited by the
 15 Board.

16 NOW THEREFORE, the parties, through their respective counsel, hereby stipulate to and
 17 request that the Court approve and enter the proposed order as the order of this Court.

19 Pursuant to General Order No. 45 X.B, the electronic filer of this document attests under
 20 penalty of perjury that he/she has the concurrence of each of the signatories to this “Stipulation and
 21 [Proposed] Order Admitting The Record From Interference No. 105,285 In This Case, Pursuant To
 22 35 U.S.C. § 146.”

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1 Dated: June 1, 2007

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

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

5 Attorneys for Plaintiff
6 AGILENT TECHNOLOGIES, INC.

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8 Dated: June 1, 2007

AFFYMETRIX, INC.

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

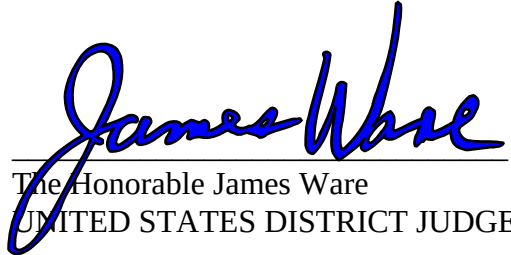
12 Attorneys for Defendants
13 AFFYMETRIX, INC.

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16 *James Ware*
[PROPOSED] ORDER

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18 PURSUANT TO THE PARTIES' STIPULATION, IT IS ORDERED THAT:

19 Pursuant to 35 U.S.C. § 146, the record from Patent Interference No. 105,285 shall be
20 admitted into evidence in this case, and the testimony and exhibits of record in the Patent and
21 Trademark Office shall have the same effect as if originally taken and produced in this case.

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24 Dated: June 5, 2007


The Honorable James Ware
UNITED STATES DISTRICT JUDGE