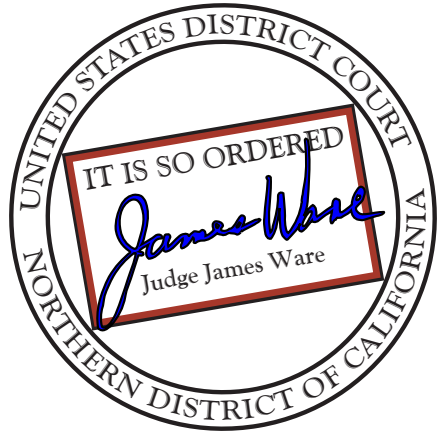


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14 AFFYMETRIX, INC.



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.
24
25
26
27
28

CASE NO. C 06-05958 JW (PVT)

STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULE

1 Pursuant to its September 13, 2007, Order, the Court has scheduled a Status Conference in
2 this action on October 22, 2007, at 10:00 a.m., and ordered the parties to file a Joint Status Statement
3 10 days in advance of the Status Conference, which would be due on October 8, 2007. Counsel for
4 Defendant Affymetrix, Inc. has requested a stipulated one-week continuance of the Status
5 Conference to allow Affymetrix to report in the Joint Status Statement on the outcome of a
6 scheduling conference on October 10, 2007, in another litigation in the District of Delaware whose
7 trial date—which will likely be determined at the scheduling conference—may impact the schedule
8 of this case. Counsel for Plaintiff Agilent Technologies, Inc. agreed. Accordingly, by their
9 signatures below, and with the Court’s permission, counsel for both parties in this action stipulate to
10 continue the Status Conference until October 29, 2007, at 10:00 a.m., and to file the Joint Status
11 Statement by October 15, 2007.

12 Furthermore, as discussed at the interim case management conference on June 11, 2007, and
13 as scheduled in its June 11, 2007, Order After Hearing, the Court scheduled the claim
14 construction/written description hearing on November 16, 2007, at 9:00 a.m. In view of the Court’s
15 recent September 13, 2007, Order and the forthcoming Status Conference in this action, Counsel for
16 both parties respectfully request that the hearing date be vacated and rescheduled for a date and time
17 to be determined at the Status Conference on October 29. Accordingly, by their signatures below,
18 and with the Court’s permission, counsel for both parties in this action stipulate to vacate the hearing
19 date now scheduled for November 16, 2007, and to reschedule for a date to be determined at the
20 October 29 Status Conference.

21 Finally, in the December 19, 2006, Stipulation and Order Selecting ADR Process, the parties
22 agreed to hold a mediation by October 1, 2007. In light of the forthcoming October Status
23 Conference and the parties’ request to vacate the November 16 hearing date, counsel for both parties
24 respectfully request that the deadline to hold the mediation be extended until May 1, 2008.
25 Accordingly, by their signatures below, and with the Court’s permission, counsel for both parties in
26 this action stipulate to extend the mediation deadline from October 1, 2007, until May 1, 2008.

1 By her signature below, counsel for Plaintiff Agilent Technologies, Inc. hereby attests that all
2 parties concur in the filing of this document.

3 Dated: September 20, 2007

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

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

8 Attorneys for Plaintiff
AGILENT TECHNOLOGIES, INC.

10 Dated: September 20, 2007

AFFYMETRIX, INC.

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

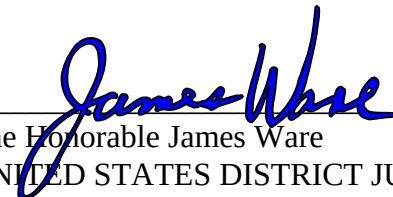
14 Attorneys for Defendants
AFFYMETRIX, INC.

~~PROPOSED~~ ORDER

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

The Status Conference is continued from October 22, 2007, to October 29, 2007, at 10:00 a.m. The parties shall file a Joint Status Statement by October 15, 2007. The hearing scheduled for November 16, 2007, is hereby vacated and will be rescheduled for a date and time to be determined at the October 29 Status Conference. Finally, the deadline for the parties to hold a mediation is is temporarily extended from October 1, 2007 to November 5, 2007. The Court will discuss a further extension at the October 29, 2007 Status Conference.

Dated: September 27, 2007


The Honorable James Ware
UNITED STATES DISTRICT JUDGE