

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHROMACODE, INC.,
Plaintiff,

v.

BIO-RAD LABORATORIES, INC.,
Defendant.

Case Nos. 5:23-cv-04823-EJD
5:23-cv-06360~EJD

ORDER OF CONSOLIDATION

Pursuant to Federal Rule of Civil Procedure 42, the Court sua sponte **ORDERS** the consolidation of *ChromaCode, Inc. v. Bio-Rad Laboratories, Inc.*, 5:23-cv-04823-EJD (“ChromaCode #1”), and *ChromaCode Inc. v. Bio Rad Laboratories Inc.*, 5:23-cv-06360-EJD (“ChromaCode #2”).

“When actions involving a common question of law or fact are pending before the court, it . . . may order all the actions consolidated.” Fed. R. Civ. P. 42(a). The “district court has broad discretion under this rule to consolidate cases pending in the same district.” *Invs. Rsch. Co. v. U.S. Dist. Ct. for Cent. Dist. of California*, 877 F.2d 777 (9th Cir. 1989). “In determining whether or not to consolidate cases, the Court should ‘weigh the interest of judicial convenience against the potential for delay, confusion, and prejudice.’” *Zhu v. UCBH Holdings, Inc.*, 682 F. Supp. 2d 1049, 1052 (N.D. Cal. 2010) (quoting *Sw. Marine, Inc. v. Triple A Mach. Shop, Inc.*, 720 F. Supp. 805, 806–07 (N.D. Cal. 1989)).

Here, ChromaCode #1 and ChromaCode #2 are related patent actions involving the same Plaintiff, ChromaCode, Inc., (“ChromaCode”), and the same Defendant, Bio-Rad Laboratories, Inc., (“Bio-Rad”). Both cases also involve related PCR technology and will require the

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1 construction and interpretation of the same patents to determine whether ChromaCode infringes
2 Bio-Rad's patents in ChromaCode # 1, and whether Bio-Rad's patents invalidate ChromaCode's
3 patents in ChromaCode #2. *See* Joint Mot. to Consider Relating Cases 1, ECF No. 41.

4 Accordingly, because both cases involve common questions of law and fact, the Court finds that
5 consolidation is in the best interest of judicial convenience. Further, the Court finds that
6 consolidation would not cause any delay, confusion, or prejudice, as both cases are currently
7 pending in the same district and maintain substantially similar case management schedules.

8 Therefore, the Court hereby **ORDERS** as follows:

9 1. ChromaCode #1 and ChromaCode #2 shall be consolidated pursuant to Fed. R. Civ.
10 P. 42(a) (hereinafter the "Consolidated Action").

11 2. All papers to be filed in the Consolidated Action shall be filed under 5:23-cv-
12 04823-EJD and shall bear the following caption:

13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN JOSE DIVISION**

17 IN RE: CHROMACODE LITIGATION

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(Consolidated)

19
20 3. The case file for the Consolidated Action will be maintained under Master File No.
21 5:23-cv-04823-EJD.

22 4. Case No. 5:23-cv-06360-EJD shall be terminated in accordance with the regular
23 procedures of the Clerk of this court, and any pending schedules, deadlines, or dates in the 5:23-
24 cv-06360-EJD case shall be terminated and the case closed.

25 5. An original copy of this Order shall be filed by the Clerk in the Master File and in
26 the 5:23-cv-06360-EJD file, and in the file of any case subsequently consolidated herewith.

27 6. All papers previously filed and served to date in 5:23-cv-06360-EJD is part of the
28 Case No.: [5:23-cv-04823-EJD](#)
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record in *In re ChromaCode Litigation*, Case No. 5:23-cv-04823-EJD.

7. Each attorney who has already made an appearance or been admitted pro hac vice in 5:23-cv-06360-EJD shall be deemed admitted in *In re ChromaCode Litigation*, Case No. 5:23-cv-04823-EJD.

8. Counsel who has not yet entered an appearance shall file a Notice of Appearance in *In re ChromaCode Litigation*, Case No. 5:23-cv-04823-EJD.

IT IS SO ORDERED.

Dated: August 14, 2024


EDWARD J. DAVILA
United States District Judge

United States District Court
Northern District of California

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