

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ROCHE DIABETES CARE, INC.,	)	
	)	
Plaintiff,	)	
Counterclaim-Defendant,	)	C.A. No. 24-668-GBW
	)	
v.	)	
	)	
TRIVIDIA HEALTH, INC.,	)	
	)	
Defendant, Counterclaim-	)	
Plaintiff.	)	

**STIPULATION OF NON-INFRINGEMENT AND [PROPOSED] ORDER
REGARDING U.S. PATENT NO. 8,128,981**

Defendant and Counterclaim-Plaintiff Trividia Health, Inc. (“Trividia”) and Plaintiff and Counterclaim-Defendant Roche Diabetes Care, Inc. (“Roche”) (collectively, the “Parties”), by their respective undersigned attorneys, hereby stipulate and agree, subject to the approval of the Court, as follows:

WHEREAS, on June 4, 2024, Roche filed its Complaint against Trividia asserting claims of infringement of U.S. Patent Nos. 7,727,467 (the “’467 patent”) and 7,892,849 (the “’849 patent”) (D.I. 1);

WHEREAS, on July 26, 2024, in its Answer to Complaint, Affirmative Defenses, and Counterclaims (D.I. 13), Trividia asserted a claim of infringement of U.S. Patent No. 8,128,981 (the “’981 patent”) against Roche in Count I (*id.* at ¶¶ 22-36);

WHEREAS, on March 7, 2025, in its Answer to Complaint, Amended Affirmative Defenses, and First Amended Counterclaims (D.I. 66), Trividia maintained its assertion of a claim of infringement of the ’981 patent against Roche in Count I (*id.* at ¶¶ 24-38);

WHEREAS, Trividia has asserted claims 1–4, 15, 16, 18–20, 29, 30, 32, and 34 of the ’981 patent against Roche;

WHEREAS, Trividia has identified Roche's Accu-Chek® Aviva Plus Test Strips, Accu-Chek® SmartView Test Strips, and Accu-Chek® Guide Test Strips, including the Accu-Chek® Meters such as the Accu-Chek® GuideMe Meter, Accu-Chek® GuideMeter, Accu-Chek® AvivaMeter, and Accu-Chek® Guide Link Meter, and the method of manufacturing those products (collectively, the "Roche Accused Products and Methods") in connection with its counterclaim of infringement of the '981 patent;

WHEREAS, on June 6, 2025, following briefing by the Parties and a *Markman* hearing, the Court construed certain claim terms of the '981 patent (*see* D.I. 119–120);

WHEREAS, the Court construed the term "movement of a [first/second] processing source" in independent claim 1 of the '981 patent as "moving the parts of a [first/second] processing source, which excludes ablation by a stationary broad field laser that passes through a mask" (D.I. 120 at 4);

WHEREAS, the Court construed the term "laser beam moved relative to the conductive layer along the [first/second] kerf" in independent claim 18 of the '981 patent as "moving the beam of a [first/second] laser along the [first/second] kerf, which excludes a stationary broad field laser that passes through a mask" (*id.*);

WHEREAS, the Parties are interested in narrowing the issues before the Court and limiting the attendant burden and expense of such issues;

NOW, THEREFORE, the Parties, by their undersigned counsel, hereby stipulate and agree, for the purposes of this action only, as follows:

1. Each of the claims asserted from the '981 patent includes at least one of the terms: "movement of a [first/second] processing source" or "laser beam moved relative to the conductive layer along the [first/second] kerf."

2. Subject to all of Trividia's rights to appeal, Trividia concedes that, under the Court's construction of the above terms, none of Roche Accused Products and Methods satisfy the limitations of the asserted claims from the '981 patent.
3. To preserve judicial and the Parties' resources, the Parties stipulate to the entry of a judgment against Trividia and in favor of Roche as to Count I of Trividia's First Amended Counterclaims (D.I. 66) that the Roche Accused Products and Methods do not infringe the asserted claims of the '981 patent under the Court's claim constructions.
4. Notwithstanding the foregoing, and for the avoidance of doubt, Trividia specifically states that it disagrees with and objects to the Court's construction of "movement of a [first/second] processing source" and "laser beam moved relative to the conductive layer along the [first/second] kerf" in the '981 patent. Trividia expressly reserves its right to challenge these constructions, or any other of the Court's constructions of the '467 and '849 patents, on appeal. The Parties reserve all rights including, but not limited to, the right to appeal the Court's Claim Construction Order (D.I. 120) to the United States Court of Appeals for the Federal Circuit.
5. None of the other causes of action pending in this case that are asserted by Roche in its Complaint (D.I. 1) or the defenses and other counterclaims asserted by Trividia in its Answer to Complaint, Amended Affirmative Defenses, and First Amended Counterclaims (D.I. 66), are resolved by this Stipulation. All claims and defenses other than the '981 patent counterclaim (Count I of Trividia's First Amended Counterclaims) remain pending for adjudication in this case at this time.
6. Trividia agrees to a stay of the deadlines under Federal Rule of Civil Procedure 54(d)(2)(B)(i) requiring that Roche file any motion for attorneys' fees within 14 days

after the entry of judgment. The effect of any entry of judgment is stayed, and Roche shall have 14 days after a mandate issues from the Federal Circuit regarding an appeal from the final judgment in this case to file such motions. Trividia otherwise reserves all rights to object to, or otherwise oppose, such fee motion. The Court will retain jurisdiction to address Roche's claims, if any, that it is entitled to its costs and attorneys' fees regarding the '981 patent counterclaim, including any determination under 35 U.S.C. § 285, and that the time to present those issues is tolled until all appeals have been exhausted in this case.

SO STIPULATED.

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Dated: July 9, 2025

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SO ORDERED this _____ day of _____, 2025.

 UNITED STATES DISTRICT JUDGE