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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: CHROMACODE LITIGATION

CASE NO. 5:23-cv-04823-EKL
(Consolidated)

**JOINT CASE MANAGEMENT
STATEMENT AND
[PROPOSED] ORDER**

Date: August 27, 2025
Time: 1:30 p.m.

Judge: Honorable Eumi K. Lee

Case No. 5:23-cv-04823-EKL

JOINT CASE MANAGEMENT STATEMENT AND [PROPOSED] ORDER

1 Plaintiffs California Institute of Technology (“Caltech”) and ChromaCode,
2 Inc. (“ChromaCode”) and Defendant Bio-Rad Laboratories, Inc. (“Bio-Rad”) submit
3 this Joint Case Management Statement (“Statement”) and [Proposed] Order in
4 advance of the August 27, 2025 Case Management Conference, pursuant to the Civil
5 Local Rule 16-10(d), Federal Rule of Civil Procedure 16, Judge Eumi K. Lee’s
6 August 18, 2025 Order to file an updated proposed schedule by August 22, 2024
7 (Dkt. 136), and Section VI of the Standing Order for Patent Cases Before Judge
8 Eumi K. Lee.

9 **I. Brief Chronology**

10 The present litigation includes three actions that have now been consolidated.
11 A summary of the history of the cases is below.

12 On September 20, 2023, ChromaCode brought this action for declaratory
13 judgment of non-infringement of U.S. Patent Nos. 9,222,128 (the “’128 Patent”) and
14 9,921,154 (the “’154 Patent”) (collectively, the “Bio-Rad Patents”). Dkt. 1.

15 On October 5, 2023, ChromaCode brought an action for infringement of U.S.
16 Patent Nos. 10,068,051 (the “’051 Patent”) and 10,770,170 (the “’170 Patent”) in
17 the U.S. District Court for the Central District of California. *ChromaCode, Inc. et al.*
18 *v. Bio-Rad Laboratories, Inc.*, 5:23-cv-06360-EJD, Dkt. 1 (N.D. Cal.) (the “6360
19 Case”). On December 7, 2023, the case was transferred to this District. 6360 case at
20 Dkt. Nos. 34, 35. On January 17, 2024, this Court entered an order that the 4823
21 case and the 6360 case were related. Dkt. 43. On March 27, 2024, Plaintiffs filed the
22 Second Amended Complaint in the 6360 case further alleging infringement of U.S.
23 Patent No. 11,827,921 (the “’921 Patent”). 6360 Case, Dkt. 54. On August 16, 2024,
24 the 4823 case and the 6360 case were consolidated. Dkt. 71.

25 On February 18, 2025, Caltech brought Case No. 5:25-cv-01701-ELK
26 alleging that Bio-Rad infringes Caltech’s U.S. Patent No. 12,168,797 (the “’797
27 Patent”; collectively with the ’051 Patent, ’170 Patent and the ’921 Patent, the
28 “Caltech Patents”). *California Institute of Technology v. Bio-Rad Laboratories, Inc.*,

5:25-cv-01701-ELK, Dkt. 1 (N.D. Cal.) (the “1701 Case”). On February 24, 2025, Caltech filed a Notice of Related Case in the 1701 case, asserting that the case is related to the 4823 case. 1701 case, Dkt. 14. On March 3, 2025, the Court issued an order finding that the cases are related and that the 1701 case should be reassigned. Dkt. 106.

On April 11, 2025, Bio-Rad filed a Motion to Consolidate the 1701 case with the present case. Dkt. 111. On June 18, 2025, during the hearing on this motion, the Court stated that separating the Bio-Rad Patents from the consolidated case seems to make sense. *See* Dkt. 124, 3:18-25. The Court also stated that it would “be asking the parties to consider going back to mediation...to some ADR efforts.” *Id.* at 4:4-6. The cases were consolidated on June 18, 2025. Dkt. 121. The Court ordered the parties to “meet and confer and submit a joint proposed schedule by June 30. The proposed schedule shall include deadlines contemplated in the Patent Local Rules, proposed Markman hearing dates on the ’797 patent, and a new fact discovery deadline in the consolidated matter.” Dkt. 121.

Before consolidation, the parties completed claim construction briefing regarding all Bio-Rad Patents and Caltech Patents, except for the ’797 Patent. On July 22, 2025, the Court entered a Claim Construction Order finding, *inter alia*: (1) the ’051 Patent’s claims indefinite; and (2) the ’170 Patent’s claims not indefinite and valid over the arguments presented by Bio-Rad in its claim construction briefs. Dkt. 125. The Claim Construction Order also determined constructions for multiple claim terms across all of the asserted patents. *Id.* Further, the Court set a Case Management Conference for August 27, 2025 at 1:30 p.m. Dkt. 121.

II. Discovery

A. Discovery Taken To Date

1. Plaintiffs’ Statement

The parties have served written discovery requests and responses to those requests. The parties have completed the exchange of infringement, invalidity, and

1 damages contentions under Patent Local Rules 3-1 through 3-4, 3-8, and 3-9, except
2 with regards to the '797 Patent.¹

3 Additionally, Plaintiffs have served twenty-six third-party document
4 subpoenas and deposed two third parties.

5 Plaintiffs have also substantially completed their document production of
6 more than 104,636 emails and attachments, and are preparing a privilege log. Bio-
7 Rad, on the other hand, has made a sparse ESI production to date. Despite indicating
8 that it expected to process and review 127,052 documents in response to Plaintiffs'
9 ESI requests, Bio-Rad has only produced 5,352 documents so far. Bio-Rad should
10 be required to substantially complete its ESI production by September 15, 2025, as
11 proposed below, in order to move discovery forward efficiently and expeditiously.

12 **2. Bio-Rad's Statement**

13 Bio-Rad has complied with its discovery obligations and will continue to do
14 so as required by the relevant local rules, federal rules, and this Court's Standing
15 Order. However, discovery has not substantially progressed since the parties filed
16 their Joint Proposed Schedule on June 30, 2025 (Dkt. 123). On August 13, 2025,
17 Bio-Rad produced updated financial information and made its document production
18 accompanying its invalidity contentions for the '797 Patent under Patent L.R. 3.4.
19 Bio-Rad intends to produce its ESI documents soon, with a goal of substantial
20 completion of production of ESI documents by mid-September 2025.

21 **III. Claim Construction Proceedings.**

22 Pursuant to section VI.1. of this Court's Standing Order in Patent Cases,
23 neither party seeks or to immediately appeal this Court's claim construction ruling.
24 However, the parties reserve their rights to appeal the Court's claim construction
25 order after a final judgement is rendered in this case.

26
27 ¹ The parties have served infringement contentions and invalidity contentions for the
28 '797 Patent.

IV. Settlement and ADR.

In an effort to comply with the Court's request that the parties further engage in mediation or ADR efforts, the parties propose the deadlines below for the parties to complete further mediation.

V. Severance of the Bio-Rad Patents**A. Plaintiffs' Position**

Plaintiffs agree with the Court that it makes sense to separate the Bio-Rad Patents from the consolidated case. *See* Dkt. 124, 3:18-25. Plaintiffs, therefore, request that the Court sever ChromaCode's declaratory judgment action against Bio-Rad for non-infringement and invalidity of the '128 patent and the '154 patent, inclusive of Bio-Rad's responsive counterclaims (the "Declaratory Action"), from the current action. Claim construction has been completed in the Declaratory Action, written discovery has largely been completed, and ChromaCode completed its document production months ago. Given the limited set of issues in that case, together with the fact that ChromaCode has provided substantial evidence of its non-liability and nominal damages at stake, there is no reason to delay adjudication of those issues while Caltech and Bio-Rad litigate entirely separate and distinct issues in this case. As such, in addition to severing the Declaratory Action, ChromaCode further requests that the Court enter a schedule in for the Declaratory Action that includes: (1) Close of Fact Discovery on or before January 30, 2026; (2) Close of Expert Discovery on or before April 24, 2026; and (3) Deadline for Filing Summary Judgment Motions on or before May 29, 2026..

B. Bio-Rad's Position

Bio-Rad believes that the Bio-Rad Patents should remain consolidated with this action through expert discovery, but then severed prior to trial. This would promote judicial efficiency and be most efficient for the parties and the witnesses.

For instance, each side has served only one notice of deposition of each other party under Fed. R. Civ. P. 30(b)(6), covering topics like the ChromaCode products

1 that are both accused of infringing Bio-Rad's Patents, and potentially relevant to
2 Plaintiffs' efforts to commercialize their patents. Similarly, there are overlapping
3 witnesses relevant to the claims pertaining to each side's patents. As just an
4 example, consider Aditaya Rajagapol, the founder of ChromaCode. He is expected
5 to have knowledge of ChromaCode's Products as well as ChromaCode's knowledge
6 of Bio-Rad's Patents (and he was identified as such in Bio-Rad's Initial Disclosures
7 served on November 30, 2023, prior to any consolidation). Aditaya Rajagopal is
8 also listed on both side's initial disclosures in the action involving Plaintiffs'
9 Patents, because he is an inventor of those patents. It would be prejudicial and
10 inefficient to force the parties to conduct piecemeal discovery of such witnesses,
11 who would all be forced to sit for multiple depositions.

12 Accordingly, Bio-Rad respectfully requests that both side's patents remain
13 consolidated through the end of expert discovery. After that time, Bio-Rad agrees
14 that the claims pertaining to its patents should be severed for dispositive motions
15 and trial, with the understanding that the dispositive motions and trial on claims
16 relating to Bio-Rad's Patents would go first and the dispositive motions and trial on
17 claims relating to Plaintiffs' Patents would go second.

18 **VI. Scheduling**

19 The parties propose that the Court enter the following schedule.² The parties
20 competing statements as to the timing of the schedule are set forth in the prior filing
21 dated June 30, 2025 at Dkt. 123.

22 Bio-Rad also adds that, in view of Caltech's recent infringement contentions
23 on the '797 patent, it plans to petition for *inter partes* review of the '797 Patent with
24 the USPTO. An institution decision will happen before Bio-Rad's proposed fact
25 discovery deadline, but not Caltech's unduly accelerated deadline. It makes sense to
26

27 ² Plaintiffs propose the schedule below for the Caltech Patents only, while Bio-Rad
28 proposes the schedule for the consolidated case.

allow time for that decision, which may obviate the need for trial, before pressing ahead with post-fact discovery activities. Further, since the June 30th filing, Plaintiffs filed a motion to amend their infringement contentions, and that motion is set to be heard in mid-September. *See* Dkts. 128, 134. Although Bio-Rad opposes the amendments, if any are permitted, there is also a high likelihood that Bio-Rad too would then amend its invalidity contentions, which will also take time. Accordingly, it is unreasonable to try to schedule the close of fact discovery as early as January 2026, further supporting the Court's adoption of Bio-Rad's proposed schedule.

Event	Plaintiffs' Proposed Dates	Defendant's Proposed Dates	Court's Scheduling Order
Exchange of Proposed Claim Terms for Construction (PLR 4-1); Deadline for Bio-Rad to supplement its sales information.	August 27, 2025	August 27, 2025	
Exchange of Preliminary Constructions ³ (PLR 4-2(a))	September 12, 2025	September 12, 2025	
Deadline for Bio-Rad to substantially complete its ESI production	September 15, 2025	September 22, 2025	

³ To streamline proceedings, the parties need not exchange the materials listed in Patent L.R. Rule 4-2(b).

Event	Plaintiffs' Proposed Dates	Defendant's Proposed Dates	Court's Scheduling Order
Joint Claim Construction/Prehearing Statement ⁴ (PLR 4-3)	September 19, 2025	October 1, 2025	
Deadline for Mediation	September 22, 2025	November 1, 2025	
Caltech' Damages Contentions (PLR 3-8)	September 26, 2025	October 1, 2025	
Bio-Rad's Responsive Damages Contentions (PLR 3-9)	October 24, 2025	October 29, 2025	
Parties' Opening Claim Construction	October 24, 2025	October 29, 2025	
Parties' Responsive Claim Construction Brief	November 5, 2025	November 12, 2025	
Claim Construction Hearing	November 19, 2025 or as soon as the Court is available thereafter ⁵	December 3, 2025 or as soon as the Court is available thereafter	

⁴ To streamline proceedings, the parties need not include in the joint claim construction statement the identification of intrinsic and extrinsic evidence listed in Patent L.R. 4-3(b). The joint claim construction statement still must include the parties' competing constructions.

⁵ The Court will forego claim construction tutorials and refer to the Parties' respective December 3, 2024 tutorials instead.

Event	Plaintiffs' Proposed Dates	Defendant's Proposed Dates	Court's Scheduling Order
Advice of Counsel (Patent L.R. 3-7)	30 days after service by the Court of its Claim Construction Ruling	30 days after service by the Court of its Claim Construction Ruling	
Close of Fact Discovery	The later of January 30, 2026 or 30 days after the Court's claim construction order	The later of June 30, 2026 or 30 days after the Court's claim construction order	
Close of Expert Discovery	April 24, 2026	TBD after claim construction is completed ⁶	
Deadline for Filing Summary Judgment and Daubert Motion Opening Briefs	May 8, 2026	TBD after claim construction is completed	
Deadline for Filing Summary Judgment and Daubert Motion Responsive Briefs	May 22, 2026	TBD after claim construction is completed	

⁶ Bio-Rad proposes a schedule through fact discovery in the consolidated matter in accordance with Dkt. 121, and believes that the parties should confer with the Court regarding the remainder of the schedule after the Court issues a ruling on all claim construction disputes.

Event	Plaintiffs' Proposed Dates	Defendant's Proposed Dates	Court's Scheduling Order
Deadline for Filing Summary Judgment and Daubert Motion Reply Briefs	May 29, 2026	TBD after claim construction is completed	
Hearing on Summary Judgment and Daubert Motions	June 27, 2026 (pursuant to Court's availability)	TBD after claim construction is completed	

VII. Other Discovery Issues and Limits

The parties respectfully request that the Court adopt the following discovery limits for the consolidated case as follows:

- 50 interrogatories per Party;
- 50 requests for admission per Party; and
- 100 hours of individual fact witness depositions per side.

Dated: August 22, 2025

SHEPPARD, MULLIN, RICHTER &
HAMPTON, LLP

By: /s/Jesse A. Salen
Jesse A. Salen
Counsel for Plaintiffs

Dated: August 22, 2025

JONES DAY

By: /s/Derek Walter
Derek Walter
Counsel for Defendant

Signature Certification

Pursuant to Local Rule 5-1(i)(3), I hereby certify that the content of this document is acceptable to Derek Walter counsel for Bio-Rad Laboratories, Inc. and that I have obtained Mr. Walter's authorization to affix his electronic signature to this document.

Dated: August 22, 2025

/s/Jesse A. Salen

Jesse A. Salen

CASE MANAGEMENT ORDER

The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is approved as the Case Management Order for this case and all parties shall comply with its provisions.

IT IS SO ORDERED.

Dated: _____

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2025, a true and correct copy of the foregoing has been served on all counsel of record who are deemed to have consented to electronic service, via the Court's CM/ECF system pursuant to Civil Local Rule 5.1(h).

/s/Jesse A. Salen

Jesse A. Salen

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CERTIFICATE OF SERVICE