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Attorneys for Defendants/Counterclaim-
 Plaintiffs
 Sequenom, Inc. and Sequenom Center for
 Molecular Medicine, LLC

Attorneys for Plaintiffs and Counterclaim
 Defendants
 Verinata Health, Inc. and The Board of
 Trustees of the Leland Stanford Junior
 University

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

VERINATA HEALTH, INC., and
 THE BOARD OF TRUSTEES OF THE
 LELAND STANFORD JUNIOR
 UNIVERSITY,

Plaintiffs,

v.

SEQUENOM, INC., and
 SEQUENOM CENTER FOR
 MOLECULAR MEDICINE, LLC,

Defendants/
 Counterclaim-Plaintiffs,

v.

VERINATA HEALTH, INC., and
 THE BOARD OF TRUSTEES OF THE
 LELAND STANFORD JUNIOR
 UNIVERSITY,

Counterclaim-Defendants,

and

ISIS INNOVATION LIMITED,

Nominal Counterclaim-
 Defendant.

Case No. 3:12-cv-00865-SI

**[PROPOSED] STIPULATION AND
 FINAL JUDGMENT UNDER FEDERAL
 RULE OF CIVIL PROCEDURE 54(b)**

CONFIDENTIAL

1 Verinata Health, Inc. ("Verinata"), The Board of Trustees of the Leland Stanford Junior
2 University ("Stanford"), Sequenom, Inc. and Sequenom Center for Molecular Medicine, LLC
3 ("Sequenom"), and Isis Innovation Limited ("Isis") (collectively, the "Parties"), by and through
4 their respective counsel of record, hereby stipulate as follows:

5 WHEREAS Verinata and Stanford filed suit against Sequenom in which Verinata seeks
6 a declaratory judgment of non-infringement and invalidity of U.S. Patent No. 6,258,540 ("the
7 '540 patent"), and Verinata and Stanford allege claims for infringement of U.S. Patent Nos.
8 7,888,017, 8,008,018, and 8,195,415 against Sequenom;

9 WHEREAS Sequenom counterclaimed against Verinata for infringement of the '540
10 patent;

11 WHEREAS, on October 30, 2013, in the related case *Ariosa Diagnostics, Inc. v.*
12 *Sequenom, Inc.* (Case No. C 11-06391 SI) ("*Ariosa*"), this Court granted the motion for
13 summary judgment made by Ariosa Diagnostics, Inc., based on this Court's determination that
14 claims 1, 2, 4, 5, 8, 19, 20, 21, 22, 24, and 25 of the '540 patent are not drawn to patent eligible
15 matter and are invalid under 35 U.S.C. § 101, as set forth in this Court's Order Granting
16 Plaintiff's Motion For Summary Judgment And Denying Defendant's Motion For Summary
17 Judgment (Docket No. 254 in Case No. C 11-06391 SI) ("Summary Judgment Order");

18 WHEREAS Sequenom asserts six additional claims of the '540 patent (claims 6, 7, 12,
19 13, 15, and 18) in its counterclaim for infringement against Verinata in the present case;

20 WHEREAS the Parties agree, without prejudice to Sequenom's right to appeal, that this
21 Court's rationale and reasoning in its Summary Judgment Order in the *Ariosa* case that claims
22 1, 2, 4, 5, 8, 19, 20, 21, 22, 24, and 25 of the '540 patent are invalid under 35 U.S.C. § 101
23 applies equally in the present case;

24 WHEREAS, in order to conserve judicial and party resources and allow for immediate
25 appeal, the Parties agree that this Court should further grant summary judgment with respect to
26 the additional claims of the '540 patent – claims 6, 7, 12, 13, 15, and 18 – asserted against
27 Verinata on the basis that the claims that were the subject of the Summary Judgment Order in
28 the *Ariosa* case are representative of these six additional claims.

1 NOW, THEREFORE, IT IS STIPULATED by and among the Parties, through their
2 respective counsel, as follows:

3 1. The Court's Summary Judgment Order in the *Ariosa* case applies with equal
4 force to the present case with respect to the claims of the '540 patent asserted in both the *Ariosa*
5 case and the present case (claims 1, 2, 4, 5, 8, 19, 20, 21, 22, 24, and 25). These claims are
6 deemed invalid under 35 U.S.C. § 101 pending appeal.

7 2. For purposes of patent eligibility under 35 U.S.C. § 101, claims 1, 2, 4, 5, 8, 19,
8 20, 21, 22, 24, and 25 of the '540 patent are deemed representative of claims 6, 7, 12, 13, 15,
9 and 18 of the '540 patent.

10 3. The dependent claims-in-suit in the present case (claims 6, 7, 12, 13, 15, and 18)
11 not addressed by the Court's Summary Judgment Order in the *Ariosa* case are deemed invalid
12 under 35 U.S.C. § 101 pending appeal, and the claims of the '540 patent addressed in the
13 Court's Summary Judgment Order in the *Ariosa* case will be treated on appeal as representative
14 claims of these six dependent claims.

15 4. Insofar as the United States Court of Appeals for the Federal Circuit (the
16 "Federal Circuit") vacates the summary judgment as to any of claims 1, 2, 4, 5, 8, 19, 20, 21,
17 22, 24, and 25, any claims that depend from a claim for which summary judgment was vacated
18 and are asserted against Verinata shall be treated as revived like such claims for which
19 summary judgment was vacated.

20 5. By stipulating in the present case that this Court's Summary Judgment Order in
21 the *Ariosa* case applies with equal force to the present case with respect to the claims of the
22 '540 patent that are asserted in both the *Ariosa* case and the present case (claims 1, 2, 4, 5, 8,
23 19, 20, 21, 22, 24, and 25) and by treating these claims as representative of the non-overlapping
24 dependent claims of the '540 patent in suit in the present case, Sequenom retains the right to
25 challenge this Court's Summary Judgment Order on appeal of the present judgment (as well as
26 appeal of judgment in the *Ariosa* case or judgment in any other related case).

6. Verinata stipulates to dismissal without prejudice of its claims for declaratory judgment of non-infringement and invalidity of all claims except claims 1, 2, 4, 5, 6, 7, 8, 12, 13, 15, 18, 19, 21, 22, 24 and 25 of the '540 patent.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: November 18, 2013

WEIL, GOTSHAL & MANGES LLP

By: /s/ Edward R. Reines
Edward R. Reines
Attorneys for Plaintiffs
VERINATA HEALTH, INC. and THE
BOARD OF TRUSTEES OF THE LELAND
STANFORD JUNIOR UNIVERSITY

Dated: November 18, 2013

KAYE SCHOLER LLP

By: /s/ Peter E. Root
Peter E. Root
Attorneys for Defendants and
Counterclaim Plaintiffs SEQUENOM, INC.
and SEQUENOM CENTER FOR
MOLECULAR MEDICINE LLC

Dated: November 18, 2013

SATTERLEE STEPHENS BURKE & BURKE LLP

By: /s/ Mario Aieta
Mario Aieta
Attorneys for Nominal Defendant
ISIS INNOVATION LIMITED

I, Peter E. Root, am the ECF User whose ID and password are being used to file this [Proposed] Stipulation And Final Judgment Under Federal Rule Of Civil Procedure 54(b). In compliance with General Order 45, X.B, I hereby attest that the above counsel have concurred in this filing.

Dated: November 18, 2013

/s/ Peter E. Root
Peter E. Root

[PROPOSED] FINAL JUDGMENT

THE COURT, having considered the foregoing stipulations of the Parties, and expressly adopting these stipulations, and having determined that there is no just reason for delay in entering this final judgment, hereby ORDERS AND ADJUDGES:

1. Based on this Court's reasoning and rationale stated in this Court's Summary Judgment Order in the *Ariosa* case, the Court hereby enters final judgment under Rule 54(b) of the Federal Rules of Civil Procedure in favor of Verinata as to Verinata's claim for a declaratory judgment of invalidity pursuant to 35 U.S.C. § 101 as to claims 1, 2, 4, 5, 6, 7, 8, 12, 13, 15, 18, 19, 21, 22, 24 and 25 of the '540 Patent, which are hereby adjudged as invalid under 35 U.S.C. § 101, without prejudice to Sequenom's right to appeal;

2. Based upon this Court's finding that all '540 Patent claims asserted against Verinata are invalid under 35 U.S.C. § 101, the Court hereby enters final judgment under Rule 54(b) of the Federal Rules of Civil Procedure in favor of Verinata as to Sequenom's counterclaim for infringement of the '540 patent in the present case and Verinata's declaratory judgment claims for non-infringement, without prejudice to Sequenom's right to appeal.

3. Verinata's declaratory judgment claims for invalidity and non-infringement of all other claims of the '540 patent are dismissed without prejudice; and

4. All issues relating to fees and costs are reserved pending the outcome of any appeals, and the deadlines for filing such motions shall be set by the Court, upon application by the Parties, after a ruling by the United States Court of Appeals for the Federal Circuit.

IT IS SO ORDERED AND ADJUDGED:

DATED: November 20, 2013



Honorable Susan Illston
United States District Court Judge