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 8 Defendant Mark Morris

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10
 11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

13 ChromaDex, Inc.,

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 15 Plaintiff,

16 v.

17 Elysium Health, Inc. and Mark Morris,

18
 19 Defendants.

20
 21 And Related Counterclaims
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Case No. 8:16-cv-02277-CJC-DFM

JOINT STATUS REPORT

*Filed concurrently with Joint Stipulation
 and [Proposed] Order*

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1 Pursuant to the Court’s December 16, 2021 Minute Order (Dkt. No. 576), Plaintiff and
2 Counter-Defendant ChromaDex, Inc., Defendant and Counterclaimant Elysium Health, Inc.,
3 and Defendant Mark Morris, by and through their respective counsel, hereby state as follows:

4 1. In September, this Court held a trial on the jury triable claims and counterclaims,
5 and on September 27, 2021, the jury rendered a verdict. (Dkt. Nos. 570, 573.)

6 2. The Court previously ordered that two of Elysium’s counterclaims—one
7 seeking a declaratory judgment of patent misuse (Counterclaim 4) and the other asserting
8 unjust enrichment (Counterclaim5)—be bifurcated for a separate bench trial, which has not
9 yet been scheduled. (*See* Dkt. No. 508.)

10 3. The Dartmouth patents at issue in the patent misuse counterclaim were also the
11 subject of a patent infringement action filed in the U.S. District Court for the District of
12 Delaware, *ChromaDex, Inc. and Trustees of Dartmouth College v. Elysium Health, Inc.*, No.
13 18-cv-01434-CFC (the “Delaware Patent Action”). On September 21, 2021, the Delaware
14 court issued a memorandum opinion holding that the Dartmouth patents are invalid.
15 (Delaware Patent Action, Dkt. No. 369.) The Delaware court entered a final judgment of
16 invalidity on October 6, 2021. (Delaware Patent Action, Dkt. No. 373.) ChromaDex has
17 appealed the district court’s decision to the U.S. Court of Appeals for the Federal Circuit.
18 The appeal is docketed as *ChromaDex, Inc. v. Elysium Health, Inc.*, No. 2022-1116 (the
19 “Federal Circuit Appeal”).

20 4. Following the jury verdict, the parties have engaged in continuous conversations
21 in an earnest effort to resolve any outstanding issues, including the need for a bench trial, a
22 proposed schedule for such a bench trial, and the need for any post-trial motions related to
23 the claims adjudicated by the jury. In particular, counsel began exchanging correspondence
24 regarding the status of the bench-trial claims and post-trial briefing the week following the
25 jury verdict, have continued to exchange such correspondence, have engaged in extensive
26 settlement discussions, and have participated in two videoconferences in an attempt to reach
27 agreement and narrow the issues for the Court.

1 5. With respect to the potential bench trial of Elysium’s remaining counterclaims,
2 the parties agree, as reflected in the concurrently-filed stipulation, and request that:

- 3 a. Elysium’s counterclaim for unjust enrichment shall be dismissed without
4 prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(A); and
- 5 b. Because it would be inefficient to conduct a bench trial on Elysium’s patent
6 misuse counterclaim before the resolution of ChromaDex’s appeal of the
7 Delaware court’s decision invalidating the Dartmouth patents, the parties
8 request that Elysium’s patent misuse counterclaim be stayed pending the
9 outcome of the appeal of the Delaware judgment.

10 6. The parties agree to file a joint status report with the Court within 30 days of
11 the issuance of the Federal Circuit’s mandate in, or other disposition of, the Federal Circuit
12 Appeal.

13 7. The parties’ efforts to reach an agreement that would resolve the need for any
14 post-trial motions related to the jury trial, including ChromaDex’s contemplated motion for
15 prejudgment interest (Dkt. No. 575), are ongoing. However, the parties agree, as reflected
16 in the concurrently-filed stipulation, and request that, in order to afford the parties additional
17 time to discuss a potential resolution, the following briefing schedule apply to any
18 prejudgment interest motion ChromaDex may file:

- 19 a. ChromaDex’s notice of motion and motion should be filed no later than
20 Monday, January 17, 2022;
- 21 b. Elysium’s opposition brief should be filed no later than Monday, January 24,
22 2022;
- 23 c. ChromaDex’s reply brief should be filed no later than Monday, January 31,
24 2022; and
- 25 d. The hearing on ChromaDex’s motion will be held on February 14, 2022, at
26 1:30 p.m.

27 8. Pursuant to Fed. R. Civ. P. 54(b), and as reflected in the concurrently-filed
28 stipulation, the parties request that the Court enter final judgment on or after February 14,

1 2022, with respect to the claims and counterclaims tried to the jury in this action, which
2 would afford the Court sufficient time to rule on any prejudgment interest motion.

3 9. The parties further request that any post-trial motions due after the entry of
4 judgment, including post-trial motions for costs and attorney’s fees, shall be filed pursuant
5 to the Federal Rules of Civil Procedure and the Local Rules for the Central District of
6 California.

7 10. The parties will inform the Court immediately if they reach a settlement that
8 affects this action.

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10 Dated: December 23, 2021

COHEN WILLIAMS LLP

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12 By: /s/ Marc S. Williams

13 Marc S. Williams
14 Reuven L. Cohen
15 Brittany L. Lane

16 *Attorneys for Defendant and Counter-*
17 *Claimant Elysium Health, Inc. and Defendant*
Mark Morris

18 Dated: December 23, 2021

COOLEY LLP

19

20 By: /s/ Barret J. Anderson

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23 Jasmin Motlagh
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