IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VANDERBILT UNIVERSITY,	)	
	)	
Plaintiff,	)	Case No. 1:05-cv-00506-SLR
vs.	)	
	)	
ICOS CORPORATION,	)	
	)	
Defendant	)	

JOINT CLAIMS CONSTRUCTION STATEMENT

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I. INTRODUCTION

In the December 7, 2005 Scheduling Order, the Court required the parties to exchange lists of "claim terms that they believe need construction" and their proposed claim constructions for those terms by July 18, 2006, and then to file a Joint Claims Construction Statement along with a separate claim chart by July 31, 2006 (Scheduling Order (Docket No. 22) at 2, ¶¶ 5 and 6).

Between July 18 and July 31, 2006, the parties met-and-conferred regarding claim construction of the claims-at-issue in this action (i.e., claims 1-8, 10 and 12-13 of U.S. Patent No. 5,859,006 and claims 1-3, 5-12, and 15-21 of U.S. Patent No. 6,140,329). Having made progress in reaching an agreement on that issue, on July 31, 2006 the parties filed a Joint Motion to Briefly Enlarge the Time for Filing of the Joint Claim Construction Statement, in which they requested that the Court extend the date for filing the Joint Claim Construction Statement to August 11, 2006 (Docket No. 34). The Court granted the Joint Motion on August 2, 2006.

The parties have continued to meet-and-confer regarding this issue, and have reached an agreement thereon. Consequently, Vanderbilt and ICOS jointly submit this Statement pursuant to ¶ 6 of the Scheduling Order.

II. JOINT STATEMENT REGARDING CLAIM CONSTRUCTION

For the purposes of this 35 U.S.C. § 256 action, the parties do not dispute the proper construction of the claims-at-issue. Therefore, the parties agree that for the purposes of this action, the Court need not conduct a traditional claim-by-claim, term-by-term claim construction. *See Vivid Technologies, Inc. v. American Science*, 200 F.3d 795, 803 (Fed. Cir. 1999) (claim construction should be limited to that which is necessary to resolve the controversy between the parties).

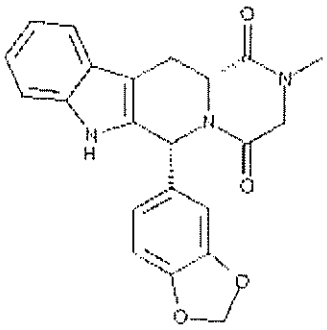
Rather, the parties agree, and respectfully request that for the purposes of this action, the Court construe claims 1-4, 6-8, 10, 12 and 13 of the '006 patent to encompass at least the compound known as tadalafil, which has at least the following chemical names:

(1) pyrazino[1',2':1,6]pyrido[3,4-b]indole-1,4-dione, 6-(1,3-benzodioxol-5-yl)-2,3,6,7,12,12a-hexahydro-2-methyl-, (6R-12aR)-;

(2) (6R,12aR)-2,3,6,7,12,12a-hexahydro-2-methyl-6-[3,4-(methylenedioxy)phenyl] pyrazino[1',2':1,6]pyrido[3,4-b]indole-1,4-dione; and

(3) (6R-trans)-6-(1,3-benzodioxol-5-yl)-2,3,6,7,12,12a-hexahydro-2-methyl-pyrazino[1',2':1,6]pyrido[3,4-b]indole-1,4-dione

and has the following structural formula:



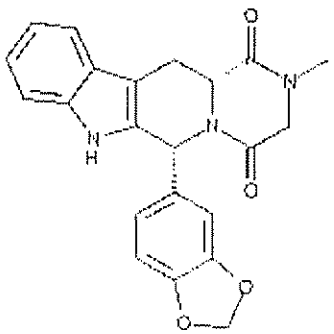
The parties further agree, and respectfully request that for the purposes of this action, the Court construe claims 1-3, 5-12, and 15-21 of the '329 patent to encompass compositions and methods of treating erectile dysfunction in a male animal involving the administration of at least the compound known as tadalafil, which has at least the following chemical names:

(3) pyrazino[1',2':1,6]pyrido[3,4-b]indole-1,4-dione, 6-(1,3-benzodioxol-5-yl)-2,3,6,7,12,12a-hexahydro-2-methyl-, (6R-12aR)-;

(4) (6R,12aR)-2,3.6,7,12,12a-hexahydro-2-methyl-6-[3,4-(methylenedioxy)phenyl] pyrazino[1',2':1,6]pyrido[3,4-b]indole-1,4-dione; and

(3) (6R-trans)-6-(1,3-benzodioxol-5-yl)-2,3,6,7,12,12a-hexahydro-2-methyl-pyrazino[1',2':1,6]pyrido[3,4-b]indole-1,4-dione

and has the following structural formula:



III. CONCLUSION

The parties have agreed that the claims-at-issue in this action need only be construed to the extent set out above for the purpose of resolving the 35 U.S.C. § 256 inventorship issues in this action. A form of proposed order setting out this proposed construction is submitted herewith. If the Court enters the proposed form of order submitted herewith, the parties submit that the remaining dates set out in ¶ 6 of the December 7, 2005 Order (for filing of opening and response claim construction briefs and

for a hearing on claim construction) may be vacated.

Dated: August 14, 2006

Respectfully submitted,

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