IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

CEPHALON, INC. and UNIVERSITY OF UTAH RESEARCH FOUNDATION Plaintiffs, v. BARR LABORATORIES, INC. Defendant.	)	Civil Action No.05-29-JJF

[PROPOSED] RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by **March 18, 2005** the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.

2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before **March 18, 2005**.

3. **Discovery.**

(a) All written discovery, document production and identification of fact witnesses shall be commenced so as to be completed by **September 30, 2005**.

(b) Maximum of thirty (30) interrogatories, including contention interrogatories, for each side.

(c) Maximum of twenty-five (25) requests for admission by each side.

(d) Maximum of ten (10) depositions by plaintiff and ten (10) by defendant, excluding expert depositions. Depositions shall not commence until **May 2, 2005** and shall be completed by **September 30, 2005**.

(e) On or before **October 20, 2005**, the parties shall serve expert reports on all issues for which a party bears the burden of proof. On or before **November 18, 2005**, the parties shall serve rebuttal expert reports. All such reports shall be in the form and content as required by Fed. R. Civ. P. 26(a)(2)(B).

(f) An y party desiring to depose an expert witness shall notice and complete said deposition no later than **December 17, 2005**, unless otherwise agreed in writing by the parties or ordered by the court.

4. **Discovery Disputes.**

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and local Rule 37.1. Said motion shall not exceed a total of four (4) pages and must specify that the filing is pursuant to the Discovery Dispute procedures provided in this paragraph. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at jjf_civil@ded.uscourts.gov that the dispute is ready for decision.

(d) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

5. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before **August 1, 2005**.

6. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before **January 27, 2006**. Briefing shall be pursuant to D. Del. LR 7.1.2 No case dispositive motion may be filed more than ten (10) days prior to the above date without leave of the Court. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

7. **Markman.** The parties anticipate that as the case progresses, the need to submit briefs to the Court regarding claim construction may arise. However, at the present time, the parties lack sufficient information to determine whether a Markman hearing will be necessary, or to present a proposed claim construction briefing schedule to the Court. Accordingly, on or before June 1, 2005, the parties will advise the Court whether a Markman hearing will be necessary, and, if so, of their proposed schedule for claim construction briefing.

8. **Applications by Motion.**

(a) Any application to the Court shall be by written motion filed with the Clerk of the Court in compliance with Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the District of Delaware (Amended Effective January 1, 2005). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmission will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

_____ _____

Dated United States District Judge