

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	Asset Purchase Agreement

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
PanVera LLC		02/04/2003	CORPORATION: DELAWARE

RECEIVING PARTY DATA

Name:	Invitrogen Corporation
Street Address:	1600 Faraday Avenue
City:	Carlsbad
State/Country:	CALIFORNIA
Postal Code:	92008
Entity Type:	CORPORATION: DELAWARE

PROPERTY NUMBERS Total: 1

Property Type	Number	Word Mark
Serial Number:	76137805	CELLSENSOR

CORRESPONDENCE DATA

Fax Number: (858)677-1401
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
 Phone: 858-638-6921
 Email: sdtrademark@graycary.com
 Correspondent Name: Nancy O. Dix
 Address Line 1: 4365 Executive Drive, Suite 1100
 Address Line 4: San Diego, CALIFORNIA 92121

ATTORNEY DOCKET NUMBER:	T05591US0
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NAME OF SUBMITTER:	John M. Kim
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Total Attachments: 9
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ASSET PURCHASE AGREEMENT

BY AND AMONG

VERTEX PHARMACEUTICALS INCORPORATED,

PANVERA LLC,

AND

INVITROGEN CORPORATION

FEBRUARY 4, 2003

Schedules:

Schedule 1	Business Material Adverse Effect
Schedule 1.1	Permitted Encumbrances
Schedule 1.1(a)	Products
Schedule 2.1(a)(i)	Real Estate
Schedule 2.1(a)(iii)	Trademarks and Patent Rights
Schedule 2.1(a)(vi)	Investments
Schedule 2.1(b)(i)	Instrumentation Assets
Schedule 5.1(a)(i)	Consent Costs and Upfront License Fees
Schedule 5.1(a)(iv)	Instrumentation License
Schedule 5.2(e)	Exceptions to Interim Operations Covenants
Schedule 5.2(e)(xiv)	Changes in Employee Compensation
Schedule 5.2(e)(xv)	Additional Seller Employees
Schedule 5.6(b)	MTA's To Be Determined as to Assignment
Schedule 6.1(f)	Applicable Permits
Schedule 6.1(h)	Third-Party Consents to be Obtained by Seller
Schedule 7.1(d)	Certain Indemnification Items
Schedule 9.6(a)	Seller Employees

The Seller Disclosure Schedules:

Section 3.1(c)	Equity Interests
Section 3.3(c)	Consents under Material Contracts
Section 3.5(a)	Employee Benefit Plans
Section 3.5(f)	Parachute Payments
Section 3.6(a)	Financial Information
Section 3.7	Absence of Certain Changes
→ Section 3.8(a)	Intellectual Property - Material Agreements
Section 3.8(b)	Third-Party Claims/Joint Licenses and Co-Owned Patents
Section 3.8(d)	Exceptions to Validity
Section 3.8(e)	Licenses, Covenants Not to Compete, etc.
Section 3.8(f)	Conveyances of Proprietary Assets
Section 3.8(g)	Royalty Obligations
Section 3.8(i)	Infringement Notice Instances
Section 3.9	Material Contracts
Section 3.10	Product Liability; Litigation
Section 3.11(a)	Environmental Permits
Section 3.11(b)	Violation of Environmental Laws
Section 3.11(g)	Release of Hazardous Substances
Section 3.11(h)	Environmental Consents
Section 3.11(i)	Environmental Matters
Section 3.13	Permits
Section 3.14	Brokers' Fees
Section 3.15	Warranty Claims
Section 3.16(a)	Taxes
Section 3.17	Inventory
Section 3.18	Undisclosed Liabilities

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the "Agreement") is entered into as of February 4, 2003, by and among Vertex Pharmaceuticals Incorporated, a Massachusetts corporation (the "Owner"), PanVera LLC, a Delaware limited liability company (the "Seller") and Invitrogen Corporation, a Delaware corporation (the "Buyer"). The Owner, the Seller and the Buyer are referred to herein individually as a "Party" and collectively as the "Parties."

INTRODUCTION

The Seller is engaged in, among other matters, the business of developing, manufacturing and selling life sciences discovery products, probes, proteins and reagents, and assay development services;

The Owner is engaged in, among other matters, the business of discovering, developing and commercializing ethical pharmaceutical products independently and with partners; and

The Buyer desires to purchase from the Seller, and the Seller desires to sell to the Buyer, all of the Seller's right, title and interest in and to substantially all of the assets and properties of the Seller, subject to the assumption by the Buyer of specified related liabilities, upon the terms and conditions set forth herein.

TERMS

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS

1.1 Definitions. Whenever used in this Agreement, the terms defined below shall have the indicated meaning:

"Account Parties" shall have the meaning set forth in Section 10.1.

"Accounting Firm" shall have the meaning set forth in Section 2.2(b)(iii).

"Acquired Assets" shall have the meaning set forth in Section 2.1(a).

"Adjustment Amount" shall have the meaning set forth in Section 2.2(b)(i).

"Affiliate" means, with respect to any Person, any Person which directly or indirectly through stock ownership or otherwise either controls, or is controlled by or under common control with, such Person.

"Agreement" shall have the meaning set forth in the preamble.

“Amended and Restated Technology Agreements” shall mean the agreements in the forms attached hereto as Exhibits H-1 through H-11.

“Ancillary Agreements” shall have the meaning set forth in Section 2.3(b).

“Applicable Accounting Principles” means United States generally accepted accounting principles (“GAAP”) (applied on a “going concern” basis without reflecting the transactions contemplated under this Agreement).

“Applicable Permits” shall have the meaning set forth in Section 3.13 and shall not include Environmental Permits.

“Assigned Contracts” shall have the meaning set forth in Section 2.1(a)(ii).

“Assignment and Assumption Agreement” shall mean the Assignment and Assumption Agreement in the form of Exhibit B hereto.

“Assignment of Ground Lease” means an Assignment of Ground Lease in form reasonably acceptable to the Buyer.

“Assumed Liabilities” shall have the meaning set forth in Section 2.1(c).

“Aurora” means Aurora Biosciences Corporation, formerly a Delaware corporation and wholly owned subsidiary of Owner, which was merged with and into Vertex San Diego on July 1, 2002.

“Benefit Plans” shall have the meaning set forth in Section 3.5(a).

“Bill of Sale” means the Bill of Sale in the form of Exhibit A hereto.

“Business” means, collectively, (a) the business of the Vertex Parties, at the time this Agreement is executed, of developing, manufacturing and/or commercializing proteins, reagents and/or assays listed on Schedule 1.1(a), providing services related thereto and/or licensing of intellectual property or confidential information related thereto, (b) performing the obligations of the Vertex Parties under the Assigned Contracts and (c) developing, manufacturing and/or commercializing products and providing services that would require rights under any Proprietary Asset that is listed on Schedule 2.1(a)(iii) to this Agreement or in Parts 1 or 2 of Section 3.8(a) of the Seller Disclosure Schedule or Part 2 of Section 3.8(b) of the Seller Disclosure Schedule, and/or licensing of intellectual property or confidential information related thereto; provided, however, that “Business” excludes the Instrumentation Assets, and further excludes the activities of the Vertex Parties (other than the Seller) which would not be prohibited by the Non-Competition Agreement or would be permitted under the Amended and Restated Technology Agreements. ←

“Business Assets” shall have the meaning set forth in Section 2.1(a).

“Business Day” shall have the meaning set forth in Section 2.3(a).

“Trademarks” shall have the meaning set forth in Section 2.1(a)(iii).

“Transfer Documents” shall have the meaning set forth in Section 2.3(b).

“Transition Services Agreement” means the Transition Services Agreement in the form of Exhibit E hereto.

“Transferred Employees” shall have the meaning set forth in Section 9.6(b).

“Vertex Parties” means the Seller, the Owner, Vertex San Diego, PanVera Corporation, Aurora, each of their successors and assigns, and each of their respective Affiliates.

“Vertex San Diego” means Vertex Pharmaceuticals (San Diego) LLC, a Delaware limited liability company and a wholly owned subsidiary of the Owner.

“WARN Act” shall have the meaning set forth in Section 3.23.

ARTICLE II ASSET PURCHASE

2.1 Purchase and Sale of Assets; Assumption of Liabilities.

(a) Transfer of Assets. At the Closing the Seller shall, and the Owner shall cause the Seller to, sell, convey, assign, transfer and deliver to the Buyer (or one or more of its assignees), and the Buyer shall purchase and acquire from the Seller, all of the Seller’s right, title and interest in and to the Business Assets, free and clear of all Liens other than Permitted Encumbrances. For purposes of this Agreement, the “Business Assets” shall mean all assets used in the operation of the Business by the Seller on the date of this Agreement (other than those assets disposed of by the Seller on or prior to the Closing Date but only to the extent permitted by Section 5.2 hereof) plus any assets acquired by the Seller following the date of this Agreement and on or prior to the Closing Date, but excluding the Excluded Assets. The Business Assets which are owned by the Seller, including the Assigned Contracts (pursuant to which Assigned Contracts the Seller has been provided its rights in certain of the Business Assets), are referred to hereinafter as the “Acquired Assets.” The Business Assets to which the Seller is transferring all of its right, title and interest include without limitation the following:

(i) the real property, leaseholds, subleases and interests therein, options or similar rights to purchase, lease, use or occupy real property and buildings, structures, facilities, fixtures and other improvements thereon and appurtenances thereto, that are listed by premises, building or street address, and tax lot number on Schedule 2.1(a)(i) hereto (collectively, the “Real Estate”);

(ii) all oral and written contracts, agreements, leases, subleases, licenses, and other arrangements used in the Business, including, without limitation, the Material Contracts (the “Assigned Contracts”);

(iii) all Proprietary Assets generated or used by or on behalf of the Seller in connection with the Business, including, without limitation, those trademarks and trade



names and registrations thereof and registration applications therefor set forth on Schedule 2.1(a)(iii) hereto (the “Trademarks”) and those patents (including any extension, reissue, reexamination or the like relating thereto) and patent applications (including any provisional, divisional, continuation or continuation in part) set forth on Schedule 2.1(a)(iii) hereto (the “Patent Rights”);

(iv) all actions, claims, causes of action, rights of recovery, choses in action or rights to set off, whether arising out of occurrences before or after the Closing Date, including Third-Party warranties and guarantees and other similar contractual rights as to third parties held by or in favor of any of the Vertex Parties with respect to any of the Business Assets, except for those described in clauses (i) and (iii) of the definition of “Excluded Assets”;

(v) all of the Seller’s accounts receivable and other receivables relating to the Business Assets or arising out of the conduct of the Business;

(vi) subject to the provisions of Section 2.2(c), below, those equity securities set forth on Schedule 2.1(a)(vi) (the “Investments”); and

(vii) all other assets and properties reflected on the Closing Balance Sheet.

(b) Excluded Assets. The Buyer shall not be entitled or obligated to purchase any of the Excluded Assets. “Excluded Assets” shall mean any assets, properties or rights of any Vertex Party other than the Seller, together with the following assets, properties and rights of the Seller:

(i) those assets described on Schedule 2.1(b)(i) hereto, which were conveyed by Seller to Aurora Biosystems LLC, prior to the date of this Agreement but subsequent to the date of the November 30 Balance Sheet (the “Instrumentation Assets”);

(ii) any cash or short-term marketable securities (which for purposes hereof shall be deemed to not include any of the Investments);

(iii) rights to insurance claims, related refunds and proceeds of claims asserted against third parties which arise out of occurrences before or after the Closing Date, including rights with respect to Third-Party warranties and guarantees and other similar contractual rights held by or in favor of any of the Vertex Parties with respect to any of the Business Assets, solely to the extent the Seller, and not the Buyer, bears or is responsible for the matter to which such right or action relates (whether because the matter relates to an Excluded Liability or otherwise), and then only to the extent of amounts paid by the Seller with respect thereto (including by way of any reduction in the Purchase Price);

(iv) all assets relating to the Benefit Plans and other policies, programs and agreements set forth in Section 3.5(a) of the Seller Disclosure Schedule;

(v) all refunds of any Tax, except as provided in Section 5.2(d)(viii);

(h) any sale, transfer or other disposition of any assets, properties or rights of the Business, except in the ordinary course of business consistent with past practice which are not material in the aggregate, except with respect to any cash or short-term marketable securities (other than the Investments) set forth or reflected on the November 30 Balance Sheet, and except for the conveyance by Seller of the Instrumentation Assets;

(i) any commitments or agreements for capital expenditures or capital additions or betterments relating to the Business exceeding \$50,000 in the aggregate, except such as may be involved in the ordinary repair, maintenance or replacement of assets not exceeding an additional \$50,000 in the aggregate;

(j) other than with respect to travel expense reimbursement and employee compensation and benefits in the ordinary course of business consistent with past practice, any payment, distribution, loan or advance of any amount to, or sale, transfer or lease of properties or assets (real, personal, or mixed, tangible or intangible) to, or the entering into of any agreement or arrangement to do so with, any officers or managers of the Seller (or any of its officers, managers or directors), or any "associate" (as such term is defined in Rule 405 under the Securities Act of 1933, as amended) thereof;

(k) any mortgage, pledge or subjection to Lien of any kind on any assets, tangible or intangible, of the Business except for Permitted Encumbrances;

(l) the granting of any material increase in the compensation payable or to become payable by the Seller to its managers, officers or employees other than increases in the ordinary course of business to employees who are not managers or officers;

(m) any material transaction, agreement or event outside the ordinary course of the conduct of the Business;

(n) the agreement, whether in writing or otherwise, to take any action described in this Section 3.7, or which would constitute a breach of any of the representations and warranties of the Owner and the Seller contained in this Agreement;

(o) any other changes in the financial condition of the Business, except for any changes that would not reasonably be expected to result in a Business Material Adverse Effect and except for any changes that involve or affect only Excluded Assets or Excluded Liabilities (including, without limitation, the conveyance by Seller of the Instrumentation Assets subsequent to such date); or

(p) any Business Material Adverse Effect.

3.8 Intellectual Property.

→ (a) Part 1 of Section 3.8(a) of the Seller Disclosure Schedule lists all of the Proprietary Assets included in the Business Assets which are patents, patent applications, trademarks or trademark applications wholly owned by Seller, setting forth in each case the jurisdictions in which patents have been issued, patent applications have been filed, trademarks have been registered and trademark applications have been filed. Part 2 of Section 3.8(a) of the

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

VERTEX PHARMACEUTICALS
INCORPORATED

By: [Signature]
Name: Joshua Roger
Title: Chairman & CEO

PANVERA LLC

By: [Signature]
Name: Joshua Roger
Title: President

INVITROGEN CORPORATION

By: [Signature]
Name: John D. Thomson
Title: Vice President

[Signature page to Asset Purchase Agreement]

PART 1 of Section 3.8(a)(continued)

pharmaceutical chemicals for use in biological, chemical, pharmaceutical, agricultural testing and for the screening of compounds and cosmetics for clinical and non-clinical laboratory use

EXPERT AND CHEMISTS JPS 31/05/2001 2001-23088 PENDING 5
RESEARCH REAGENTS FOR ASSAYS AND TESTING CHEMICALS FOR USE IN BIOLOGICAL, CHEMICAL, PHARMACEUTICAL, AGRICULTURAL TESTING AND FOR THE SCREENING OF COMPOUNDS AND COSMETICS FOR CLINICAL AND NON-CLINICAL LABORATORY USE
IDENTIFICATION OF CHEMICALS FOR USE IN BIOLOGICAL, CHEMICAL, PHARMACEUTICAL, AGRICULTURAL TESTING AND FOR THE SCREENING OF COMPOUNDS AND COSMETICS FOR CLINICAL AND NON-CLINICAL LABORATORY USE

UNION STATES AND CHEMISTS USA 9/29/2000 76/137,804 ALLOWED 1
REAGENTS FOR IDENTIFICATION OF CHEMICALS FOR USE IN BIOLOGICAL, CHEMICAL, PHARMACEUTICAL, AGRICULTURAL TESTING AND FOR THE SCREENING OF COMPOUNDS AND COSMETICS FOR CLINICAL AND NON-CLINICAL LABORATORY USE

THREE STATES AND CHEMISTS USA 9/29/2000 76/137,605 ALLOWED 5
REAGENTS FOR IDENTIFICATION OF CHEMICALS FOR USE IN BIOLOGICAL, CHEMICAL, PHARMACEUTICAL, AGRICULTURAL TESTING AND FOR THE SCREENING OF COMPOUNDS AND COSMETICS FOR CLINICAL AND NON-CLINICAL LABORATORY USE

CORE REAGENTS FOR CORE USE 11/08/99 75/042,870 6/29/2000 2,381,600 REGISTERED 1
REAGENTS AND ASSAYS FOR SCIENTIFIC AND RESEARCH LABORATORY USE
REAGENTS FOR SCIENTIFIC AND RESEARCH LABORATORY USE

UNION STATES AND CHEMISTS USA 11/08/99 75/042,670 8/29/2000 2,381,600 REGISTERED 5
REAGENTS AND ASSAYS FOR SCIENTIFIC AND RESEARCH LABORATORY USE
REAGENTS FOR SCIENTIFIC AND RESEARCH LABORATORY USE

PLASTI (Filed Statement of Use September 2002 - Filed as a §1(a) use application)
UNION STATES AND CHEMISTS USA 9/17/2002 76/163,628 PENDING 1
REAGENTS AND ASSAYS FOR SCIENTIFIC AND RESEARCH LABORATORY USE IN BIOLOGICAL, CHEMICAL AND ENVIRONMENTAL TESTING AND FOR THE SCREENING OF COMPOUNDS AND COSMETICS FOR USE IN THE IDENTIFICATION OF PHARMACEUTICALS, AGRICULTURAL COMPOUNDS AND COSMETICS

UNION STATES AND CHEMISTS USA 9/17/2002 76/163,628 PENDING 5
REAGENTS AND ASSAYS FOR SCIENTIFIC AND RESEARCH LABORATORY USE IN BIOLOGICAL AND ENVIRONMENTAL TESTING AND FOR THE SCREENING OF COMPOUNDS AND COSMETICS FOR USE IN THE IDENTIFICATION OF PHARMACEUTICALS, AGRICULTURAL COMPOUNDS AND COSMETICS

GENEVAZER (Assigned from Aurora Biosciences to PanVera)
UNION STATES AND CHEMISTS USA 10/16/2000 1,078,633 8/15/2002 585,838 REGISTERED 1
REAGENTS AND ASSAYS FOR SCIENTIFIC AND RESEARCH LABORATORY USE IN BIOLOGICAL, CHEMICAL AND ENVIRONMENTAL TESTING AND FOR THE SCREENING OF COMPOUNDS AND COSMETICS FOR USE IN THE IDENTIFICATION OF PHARMACEUTICALS, AGRICULTURAL COMPOUNDS AND COSMETICS

