

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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NOVARTIS PHARMACEUTICALS	:	
CORPORATION, NOVARTIS AG,	:	
NOVARTIS PHARMA AG, NOVARTIS	:	
INTERNATIONAL PHARMACEUTICAL	:	
LTD. and LTS LOHMANN THERAPIE-	:	
SYSTEME AG,	:	
	:	
Plaintiffs,	:	C.A. No. 13-527-RGA
	:	
v.	:	
	:	
NOVEN PHARMACEUTICALS, INC.,	:	
	:	
Defendant.	:	
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**~~PROPOSED~~ AMENDED STIPULATED PROTECTIVE ORDER**

Pursuant to Federal Rule of Civil Procedure 26(c), the parties<sup>1</sup> hereby stipulate that:

1. Any document or thing or portion thereof produced by a party to this case (“producing party”) may be designated by the producing party as “Confidential.”
  - a. A party may designate as “Confidential” material which that party in good faith believes comprises confidential information used by it in or pertaining to its business, which information is not publicly known.
  - b. Each such document or portion thereof, or thing, shall be clearly marked or stamped with the legend “CONFIDENTIAL.” Such legend shall be placed on every page of a multi-page document. Such legend need not be placed on the original document of the producing party, but may instead be placed upon copies

<sup>1</sup> For purposes of this Order Novartis Pharmaceuticals Corporation, Novartis AG, Novartis Pharma AG and Novartis International Pharmaceutical Ltd. are collectively referred to as the “Novartis plaintiffs.” The Novartis plaintiffs and LTS Lohmann Therapie-Systeme AG are collectively referred to as “plaintiffs.” Noven Pharmaceuticals, Inc. is referred to as “Noven.”

produced or exchanged. As to each document or portion so marked (subject to the exceptions contained in paragraphs 15 and 16 below), the receiving party shall not disclose such document or portion (or the contents thereof) to others unless by specific order of this Court or by written consent of the producing party, and shall not use such document or portion (or the contents thereof) for any purpose other than the prosecution and/or defense of the above-captioned case and/or for the purpose of coordinating the prosecution and/or defense of consolidated or joint aspects of pre-trial, trial, post-trial, and, if applicable, any appeal in the related case *Novartis Pharms. Corp. et al. v Alvogen Pine Brook Inc. et al.*, case no. 13-cv-00052 (D. Del.) and/or related Case No. 13-cv-00370, and in accordance with the terms of this Order. “Confidential” designated information cannot, for example, be used by the receiving party for the purpose of preparing or prosecuting a patent application, in any communication with the U.S. Food and Drug Administration, or in any communication with the United States Pharmacopeia. All “Confidential” information not reduced to documentary or tangible form or which cannot be conveniently designated in the manner set forth above, such as models or electronic files in native format, shall be designated by informing the receiving party in writing, and/or by so labeling the media on which the information is produced.

2. Interrogatories or answers thereto, requests for admissions or responses thereto, motions, briefs, memoranda, correspondence and other documents (or portions of the foregoing) prepared, produced, and served and/or filed in connection with this case containing “Confidential”

information, or quoting or referring to the substance of “Confidential” information, shall be designated as “Confidential” in accordance with paragraph 1.

3. Oral or transcribed testimony may similarly be designated by any party as “Confidential.” All transcripts of such testimony shall be treated as “Confidential” in their entirety until thirty (30) days following receipt of the transcript. Thereafter, the information contained in the transcript will no longer be deemed “Confidential” unless: within thirty (30) days of receiving the final transcript, the party designating such transcript as “Confidential” provides to the other parties written notice that identifies the portions of the transcript that contain “Confidential” information; or at the deposition or hearing, counsel for the producing party stated on the record that certain portions or the entirety of the transcript contains “Confidential” information. The court reporter must mark the transcript accordingly pursuant to the specified designation.

4. In the event a producing party elects to produce “Confidential” information for inspection, no marking need be made by the producing party in advance of inspection, and all information produced for inspection shall be treated as “Confidential” during inspection. Thereafter, upon selection of specified material for copying by the inspecting party, copies of such documents that contain “Confidential” information shall be marked with the appropriate confidentiality marking. “Confidential” information inspected, but not selected for copying, by the inspecting party shall thereafter be treated as “Confidential.” If the producing party discovers after inspection is complete that it has inadvertently produced “Confidential” information that has not been properly designated as such, the producing party may correct that error by identifying to the receiving party in writing the “Confidential” information and the

confidential nature of the information. The parties agree thereafter to treat that information in accordance with this Order.

5. Information which becomes available to any party via inspection, measuring, analyzing, or testing of any sample or thing designated as “Confidential” pursuant to paragraph 1, or which is prepared or derived by utilizing information designated as “Confidential” information and supplied under this Order, shall also be considered “Confidential” information, as the case may be, under this Order.

6. Information designated “Confidential” as described in this Order shall be deemed and treated as “Confidential” information unless and until the Court rules to the contrary, and any access thereto or use or disclosure thereof shall be limited, unless and until the Court rules that there may be further disclosure, to the following:

- a. Attorneys employed by law firms of record for the parties in this case, and persons working solely in secretarial, clerical and paralegal capacities who are assisting those attorneys in this case, and contract or temporary attorneys retained by law firms of record for the parties in the case, provided such contract or temporary attorneys acknowledge that they will abide by this Order by signing the attached Acknowledgement;
- b. Court reporters and videographers taking testimony involving information designated as “Confidential” and necessary stenographic and clerical personnel thereof;
- c. Litigation support consultants engaged to provide services relating to document indexing or imaging, demonstrative exhibits, graphics, charts, animations and/or

jury studies, provided they acknowledge that they will abide by this Order by signing the attached Acknowledgement;

- d. Consultants or experts and their staffs to the extent cleared by the parties pursuant to paragraph 9 of this Order, provided they acknowledge that they will abide by this Order by signing the attached Acknowledgement;
- e. Mock jurors and/or judges engaged by any consultant in preparation for trial, provided they acknowledge that the information they are shown shall be kept confidential;
- f. The Court and the Court's staff;
- g. Subject to the limitations described in paragraph 8, Peter Waibel and Tim Ohnemuller as in-house counsel for plaintiffs, and Jeff Mihm as in-house counsel for defendant, provided that Messrs. Mihm, Waibel, and Ohnemuller do not have and will not assume responsibility for the prosecution of patent applications claiming rivastigmine, compositions or devices containing rivastigmine, methods of making rivastigmine or rivastigmine-containing products, or methods of using rivastigmine.
- h. Any person to whom the designating party agrees in writing;
- i. Any person to the extent required by Court Order; and
- j. Regarding plaintiffs' "Confidential" information only: Attorneys employed by law firms of record for the defendants in the related case *Novartis Pharms. Corp. et al. v Alvogen Pine Brook Inc. et al.*, case no. 13-cv-00052 (D. Del.) and related Case No. 13-cv-00370, and persons working solely in secretarial, clerical and paralegal capacities who are assisting those attorneys in this case, and contract or



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