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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ABRAXIS BIOSCIENCE, LLC, a  
Delaware Limited Liability Company;  
and GLOBAL HEALTH GRID, LLC, a  
Delaware Limited Liability Company;

Plaintiffs,

v.

SABYENT, INC, a Florida Corporation,  
SABYENT MARKETING, INC., a  
Florida Corporation, and YESH  
PENDHARKAR, and DOES 1-10,

Defendants.

SABYENT MARKETING, INC.,

Counter-Plaintiff,

v.

ABRAXIS BIOSCIENCE, LLC and  
GLOBAL HEALTH GRID, LLC,

Counter-Defendants.

Case No. CV 10-02255-GW (SHx)

~~PROPOSED~~ ORDER APPROVING  
STIPULATED PROTECTIVE  
ORDER

Judge: Hon. Stephen J. Hillman  
Courtroom: 550 (Roybal)

Complaint Filed: March 26, 2010

[PROPOSED] ORDER

1 The parties to the above-captioned action having submitted their Stipulation to  
2 Entry of Protective Order for approval by the Court, and the Court being fully apprised  
3 of the premises, and good cause appearing, the Protective Order is hereby approved as  
4 follows:

5 1. Any party may designate as subject to this stipulation and order (the  
6 “Protective Order”) depositions, documents produced in response to requests for  
7 production of documents, answers to interrogatories, responses to requests for  
8 admissions and all other discovery taken pursuant to the Federal Rules of Civil  
9 Procedure, as well as all documents or information produced by that party in response  
10 to informal discovery requests (“Discovery Materials”) by stamping on or otherwise  
11 permanently affixing to such material (without obscuring or defacing the material)  
12 prior to its production the designation “CONFIDENTIAL” or “CONFIDENTIAL-  
13 SUBJECT TO PROTECTIVE ORDER” (“Confidential Material Designation”). Either  
14 party may designate as Confidential Material only documents or information produced  
15 or provided by that party or any non-party to this action.

16 (a) Should any party, counsel for any party, or any person or entity not  
17 a party to this action who obtains access to Confidential Material pursuant to the terms  
18 hereof make copies or duplicates of such Confidential Material, or any portion thereof,  
19 and if the Confidential Material Designation is not clearly reproduced on the copies or  
20 duplicates as a result of the copying process, then the designation “CONFIDENTIAL”  
21 or “CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER” shall be stamped on or  
22 affixed to such copies or duplicates, and the references of this Protective Order to  
23 Confidential Material shall be deemed to include and to apply to such copies or  
24 duplicates.

25 (b) Should any party, counsel for any party, or any person or entity not  
26 a party to this action who obtains access to Confidential Material pursuant to the terms  
27 hereof make extracts or summaries of any Confidential Material, such extracts or  
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1 summaries shall also be stamped with the designation "CONFIDENTIAL" or  
2 "CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER."

3 (c) This Protective Order shall apply to all Confidential Material so  
4 designated whether produced informally or in response to formal discovery.

5 (d) This Protective Order shall not apply to or limit a party's use of its  
6 own documents or information, or documents or information that were obtained by the  
7 party independently of this action, or that have been made public by court order.

8 2. The parties may further designate certain Confidential Material of an  
9 extraordinarily high confidential and/or proprietary nature as "ATTORNEYS' EYES  
10 ONLY" or "CONFIDENTIAL-ATTORNEYS' EYES ONLY MATERIAL," or similar  
11 designation, in the manner described in Paragraph 1, and this provision shall permit  
12 parties to designate materials produced by non-parties as Confidential or Attorneys-  
13 Eyes Only. If disclosure of this Confidential Material is made pursuant to this  
14 paragraph, all other provisions in this order with respect to confidentiality shall also  
15 apply, except where inconsistent with this paragraph.

16 3. Discovery Material, including but not limited to Confidential Material,  
17 shall not be used or disclosed, in whole or in part, directly or indirectly, by any person  
18 granted access thereto under or as a result of the Protective Order, for any purpose or  
19 to any person or entity whatsoever, except in connection with the preparation for  
20 and/or prosecution or defense of this action.

21 4. If a party disagrees with or challenges the grounds or basis for the  
22 designation of any document or information as Confidential Material or Confidential-  
23 Attorneys' Eyes Only Material, that party nevertheless shall treat and protect such  
24 material as Confidential Material or Confidential-Attorneys' Eyes Only Material in  
25 accordance with this Protective Order unless and until all parties shall have agreed in  
26 writing, or an order of the Court shall have been entered, that provides that such  
27 challenged Confidential Material or Confidential-Attorneys' Eyes Only Material may  
28 be used or disclosed in a manner different from that specified for Confidential Material

1 or Confidential-Attorneys' Eyes Only Material in this Protective Order. In the event of  
2 such a disagreement, the parties shall try to resolve the dispute, in good faith and on an  
3 informal basis. If the dispute cannot be so resolved, the party seeking to disclose the  
4 information must notify the designating party, in writing, that it still disputes the  
5 designation. The designating party may within fifteen (15) business days of receipt of  
6 such written notice, move the Court for a ruling as to whether the disputed information  
7 constitutes Confidential Material or Confidential-Attorneys' Eyes Only Material as  
8 defined in paragraph(s) 1 and/or 2, above. If the designating party does not so move  
9 within 15 business days, or if the Court rules that the information does not constitute  
10 Confidential Material or Confidential-Attorneys' Eyes Only Material, then such  
11 information shall not be treated as Confidential Material or Confidential-Attorneys'  
12 Eyes Only Material subject to this Order; provided that pending the expiration of the  
13 15-business day period, or a ruling by the Court if a motion is made within the 15-  
14 business day period, the information shall be treated as Confidential Material or  
15 Confidential-Attorneys' Eyes Only Material subject to this Order.

16 5. Subject to the provisions of Paragraph 2 above, Confidential Materials  
17 may be disclosed by the receiving party only to the following persons:

18 (a) attorneys of record in this action, and any member, associate,  
19 employee, contract lawyer or paralegal of the firm where such attorney practices, and  
20 any employee of an independent photocopying service utilized by such attorney in this  
21 action;

22 (b) in-house counsel of the parties to this action;

23 (c) employees of the parties to this action, and consulting or testifying  
24 experts retained by counsel, where counsel in good faith believes that the Confidential  
25 Materials disclosed to such persons is relevant to the preparation and/or testimony of  
26 such persons or is otherwise necessary to this action;

27 (d) persons subpoenaed or otherwise called as a witness at a deposition  
28 or hearing in this action, where counsel in good faith believes that the Confidential

1 Materials disclosed to such persons is relevant to the examination and/or testimony of  
2 such persons or is otherwise necessary to this action;

3 (e) stenographic reporters involved in any deposition, hearing, trial or  
4 other proceeding in this action;

5 (f) the Court in this action, and in any appeals therefrom, and Court  
6 personnel;

7 (g) experts and consultants retained by the parties; and

8 (h) such other persons as hereafter may be designated by express  
9 written stipulation of the parties or by further order of the Court; and

10 only, with the exception of persons identified in subparagraphs 5(a), 5(e) and  
11 5(f), if such persons agree to be bound by this Protective Order by signing a non-  
12 disclosure agreement in the form attached hereto as Exhibit A.

13 6. Confidential-Attorneys' Eyes Only Material may only be disclosed to  
14 persons as specified in subparagraphs 5(a), 5(b), 5(d), 5(e), 5(f), 5(g) and 5(h) , and  
15 only, with the exception persons identified in subparagraphs 5(a), 5(e), and 5(f) if such  
16 persons agree to be bound by this Protective Order by signing a non-disclosure  
17 agreement in the form attached hereto as Exhibit A. Copies of executed non-  
18 disclosure agreements shall be maintained by counsel for the party disclosing the  
19 Confidential Materials or Confidential-Attorneys' Eyes Only Material, and shall be  
20 produced within 10 calendar days of a request by any other party. In addition, the  
21 parties agree that they may show software code designated as Confidential Attorneys-  
22 Eyes Only to Yesh Pendharkar, Veeru Koritela, Suneel Kottamasu and Venkat Gurram  
23 using a secure Relativity platform which does not permit the copying, editing, or  
24 printing of the Attorneys-Eyes Only Confidential Material, provided those individuals  
25 execute Exhibit A and do not copy, edit or print the Attorneys-Eyes Only Confidential  
26 Material.

27 7. Without written permission from the designating party or a court order  
28 secured after appropriate notice to all interested persons, a party may not file in the

1 public record in this action any Confidential Materials or Confidential-Attorneys' Eyes  
2 Only Materials, or any brief or declaration that excerpts, summarizes, or otherwise  
3 discloses the content of such Confidential Materials or Confidential-Attorneys' Eyes  
4 Only Materials. However, without such an Order, all documents that are filed or  
5 lodged with the Court that attach or disclose the contents of Confidential Material or  
6 Confidential-Attorneys' Eyes Only Materials shall be placed in a sealed envelope with  
7 a copy of the title page attached to the front of the envelope that includes a statement  
8 substantially as follows:

9 Confidential Information - Subject to Protective Order. This  
10 envelope contains material filed [lodged] under seal for the  
11 purpose of this action only. It shall not be opened by a  
12 person other than the Court except by Court's Order or by  
13 written stipulation of all parties filed with the Court, and is  
14 otherwise subject to the provisions of the Protective Order  
15 entered in this action on [date].

16 8. If, in connection with any hearing or other pretrial proceeding in open  
17 court, a party intends to offer into evidence or otherwise disclose any Confidential  
18 Material, counsel for that party shall inform counsel for the party who designated the  
19 material as Confidential Material of the intended use or disclosure. The notice shall be  
20 given as soon as practical under the circumstances in advance of such proposed action  
21 in order to permit counsel for the designating party to take such action as may be  
22 necessary or appropriate to protect such Confidential Material from improper or unfair  
23 disclosure. "Practical" as used herein shall mean no less than five business days unless  
24 the party providing notice makes a showing of good cause as to why a shorter time  
25 period was necessary and practical under the circumstances and demonstrates that the  
26 failure to give the required five day notice will not result in a failure to protect the  
27 Confidential Material.

28 9. If any Confidential Material or its contents is presented at, or is the  
subject of inquiry during, a deposition, counsel for the party designating the material as  
Confidential Material shall notify the deposition reporter to stamp on or otherwise  
permanently affix "CONFIDENTIAL" or "CONFIDENTIAL - SUBJECT TO

1 PROTECTIVE ORDER” to the pages of deposition testimony during which  
2 Confidential Material is discussed and to bind those pages separate from the rest of the  
3 transcript. In addition, counsel for the party whose Confidential Material is to be  
4 disclosed or inquired into shall notify the deposition reporter to stamp or otherwise  
5 permanently affix “Portions Are CONFIDENTIAL - SUBJECT TO PROTECTIVE  
6 ORDER and Are Separately Bound” onto the title page of that deposition transcript.  
7 That portion of the deposition that may reveal Confidential Material or its contents  
8 shall be conducted (unless otherwise agreed to by counsel for all parties in writing or  
9 upon the record of the deposition) under circumstances such that only the deposition  
10 reporter and persons duly authorized hereunder to have access to such Confidential  
11 Material, as the case may be, shall be present. Such portions of the deposition  
12 transcript shall be deemed, as appropriate, Confidential Material for the purpose of the  
13 Protective Order.

14 10. Nothing herein shall be deemed to restrict in any manner the use by any  
15 party or its counsel of that party’s own documents or information, or those that are or  
16 have been made public and shall only apply to documents produced by the opposing  
17 party, or any third party pursuant to the terms of this Protective Order, not already in  
18 the possession of or independently obtained by the other party. Moreover,  
19 Confidential Materials may be disclosed to the author of the document or the original  
20 source of the information, including employees of corporate sources.

21 11. This Protective Order does not preclude presenting the original of the  
22 transcript in its entirety to the deponent for review, correction and signing, nor does it  
23 preclude delivery by the reporter of copies of deposition transcripts containing and/or  
24 annexing Confidential Material, in their entirety and marked with the Confidential  
25 Material Designation provided above, to counsel for parties to this Protective Order,  
26 which transcripts shall then be maintained by such counsel in accordance with the  
27 provisions of this Protective Order. This Protective Order is without prejudice to the  
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1 right of any party to seek modification of it from the Court with respect to any  
2 specified materials.

3 12. This Protective Order is without prejudice to the right of any party to  
4 bring before the Court at any time the question of whether any particular information is  
5 or is not relevant to any issue in, or to the subject matter of, this action, and such right  
6 is hereby expressly reserved. Previous designation of such information as confidential  
7 pursuant to this Protective Order shall not be construed as an admission of relevance or  
8 discoverability.

9 13. Inadvertent production of a document that is later claimed to contain  
10 confidential or proprietary information or is otherwise subject to the attorney-client,  
11 attorney work product, or other applicable privilege or doctrine shall not be deemed a  
12 waiver of the right to designate the document as Confidential Material, or a waiver of  
13 any privilege or doctrine, provided that the producing party asserts such designation or  
14 privilege/doctrine or protection within 15 days of the discovery of such inadvertent  
15 production. Any disclosure by the receiving party made before the designation will  
16 not constitute a violation of this Order; however, nothing in this Order is intended to  
17 modify whatever obligation a party receiving documents subject to a privilege or  
18 doctrine may have under the applicable ethical rules. If documents or information  
19 subject to the attorney-client privilege or other applicable doctrine are inadvertently  
20 produced, the recipient agrees that, upon request from the producing party, it shall  
21 promptly (and, in any event, within 2 business days) return all copies of documents  
22 containing the privileged documents or information, delete any versions of the  
23 documents containing the information on any database or computer filing system it  
24 maintains, and make no use of the privileged information. This provision shall not  
25 prevent the parties from asserting that any claimed designation or privilege is  
26 inappropriate or is inapplicable with respect to such document following the return of  
27 the document.

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1           14. The parties shall meet and confer regarding procedures governing the use  
2 of Confidential Material or Confidential-Attorneys' Eyes Only Material at trial.  
3 Disclosure and use of Confidential Material or Confidential-Attorneys' Eyes Only  
4 Material at trial and in subsequent proceedings shall be governed by the terms of an  
5 Order to be entered by the Court at the appropriate time, or by applicable law should  
6 no Order be obtained.

7           15. Upon termination of this action (including any appeals), all Confidential  
8 Material, produced in this action, including all reproductions, notes and transcriptions  
9 made of such material shall, upon demand by the party that produced it, be returned to  
10 counsel for the party that produced it within 60 days' of such demand. The party  
11 returning the Confidential Materials upon demand by the party that produced it, shall  
12 certify to the party that produced the Confidential Materials in writing that all such  
13 information has been destroyed or returned; provided that nothing herein shall obligate  
14 the party returning the Confidential Materials to destroy any pleading, deposition,  
15 transcript, trial/arbitration exhibit, or work product prepared or used in this action, but  
16 the Confidential Materials contained therein shall continue to be treated as  
17 Confidential Materials in accordance with the terms of this Order.

18           16. The terms of this Protective Order shall survive and remain in full force  
19 and effect after the termination of this action.

20  
21           SO ORDERED.

22  
23 Dated: 9/13/11

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25 \_\_\_\_\_  
26 HONORABLE STEPHEN J. HILLMAN  
27 UNITED STATES MAGISTRATE JUDGE  
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**EXHIBIT A**

The undersigned acknowledges that (s)he has read the Stipulated Pretrial Protective Order entered in this action by the United States District Court for the Central District of California, that (s)he understands its terms, that (s)he is one of the persons contemplated in Paragraphs 2 or 5 of the Order as authorized to receive disclosure of Confidential Material and/or Confidential – Attorneys’ Eyes Only Material, and that (s)he agrees to be bound by that Stipulated Protective Order.

The undersigned further consents to be subject to the jurisdiction of the United States District Court for the Central District of California for purposes of any proceedings relating to performance under, compliance with or violation of the above-described Order.

Name: \_\_\_\_\_

Organization: \_\_\_\_\_