

HUESTON HENNIGAN LLP
Moez M. Kaba (257456)
mkaba@hueston.com
Steven N. Feldman (281405)
sfeldman@hueston.com

Note Changes Made by the Court

523 West 6th Street, Suite 400
Los Angeles, CA 90014
Telephone: (213) 788-4340
Facsimile: (888) 775-0898

Attorneys for Defendants Valeant Pharmaceuticals
International, Inc. and Bausch & Lomb Incorporated

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

ICONLAB INC., a California corporation,
ICON LAB GmbH, a German corporation,
REPER-NN, CO. LTD, a Russian
corporation,

Case No. 8:16-cv-01321-JLS-KES

Plaintiffs,

**Discovery Document: Referred to
Magistrate Judge Karen E. Scott**

v.

STIPULATED PROTECTIVE ORDER

VALEANT PHARMACEUTICALS
INTERNATIONAL, INC., a Delaware
corporation; BAUSCH & LOMB
INCORPORATED, a New York
corporation; ANADOLU TIP
TEKNOLOJILERI URETIM
PAZARLAMA ITHALAT IHRACAT
TICARET ve SANAYI ANONIM
SIRKETI, a Turkish corporation, AND
DOES 1-20, inclusive,

Defendants.

1. PURPOSES, LIMITATIONS, AND GOOD CAUSE

A. Purposes and Limitations

Discovery in this action is likely to involve production of confidential, proprietary,
competitively sensitive, or private information for which special protection from public

1 disclosure and from use for any purpose other than prosecuting this litigation may be
2 warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the
3 following Stipulated Protective Order. The parties acknowledge that this Order does not
4 confer blanket protections on all disclosures or responses to discovery and that the
5 protection it affords from public disclosure and use extends only to the limited information
6 or items that are entitled to confidential treatment under the applicable legal principles.
7 The parties further acknowledge, as set forth in Section 12.1, below, that this Stipulated
8 Protective Order does not entitle them to file confidential information under seal; Civil
9 Local Rule 79-5 sets forth the procedures that must be followed and the standards that will
10 be applied when a party seeks permission from the court to file material under seal.

11 **B. Good Cause Statement**

12 This action is likely to involve trade secrets, valuable research, development,
13 commercial, financial, technical and/or proprietary information for which special
14 protection from public disclosure and from use for any purpose other than prosecution of
15 this action is warranted. Such confidential and proprietary materials and information
16 consist of, among other things, documents, testimony, information or other things that the
17 Designating Party (as defined below) believes, in good faith, contain (1) confidential
18 business, financial, personal, or commercial information or competitively-sensitive
19 information not customarily disclosed to the general public; or (2) any third-party
20 documents, testimony or information or other things that the third party currently
21 maintains as confidential, seeks to maintain as confidential for purposes of the above-
22 captioned action, and the disclosure of which may have the effect of causing harm to the
23 third-party persons, firm, partnership, corporation or organization from which the
24 documents, testimony or information was obtained. Confidential information shall also
25 include business negotiations and/or dealings with each other and third parties, business
26 agreements with each other and third parties, financial information about the entities,
27 financial transactions with each other and third parties, information regarding confidential
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1 business practices, confidential research and development about the entities' products,
2 commercial information, information implicating privacy rights of third parties,
3 information otherwise generally unavailable to the public, or which may be privileged or
4 otherwise protected from disclosure under state or federal statutes, court rules, case
5 decisions, or common law.

6 Accordingly, to expedite the flow of information, to facilitate the prompt resolution
7 of disputes over confidentiality of discovery materials, to adequately protect information
8 the parties are entitled to keep confidential, to ensure that the parties are permitted
9 reasonable necessary uses of such material in preparation for and in the conduct of trial, to
10 address their handling at the end of the litigation, and serve the ends of justice, a protective
11 order for such information is justified in this matter. It is the intent of the parties that
12 information will not be designated as confidential for tactical reasons and that nothing be
13 so designated without a good faith belief that it has been maintained in a confidential, non-
14 public manner, and there is good cause why it should not be part of the public record of
15 this case.

16 **2. DEFINITIONS**

17 2.1 Action: this pending federal lawsuit.

18 2.2 Challenging Party: a Party or Non-Party that challenges the
19 designation of information or items under this Order.

20 2.3 "CONFIDENTIAL" Information or Items: information (regardless of
21 how it is generated, stored or maintained) or tangible things that qualify for protection
22 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
23 Statement. Such information may consist of, without limitation, (1) testimony given in
24 this Action by any Party (as defined below) or by any third party (whether oral, in writing,
25 or via videotape); (2) documents produced in this action by any party or by any third party;
26 (3) written discovery responses given by any Party; (4) any documents or pleadings filed
27 with the Court which ~~attach~~, contain or disclose any such "CONFIDENTIAL"

1 Information; and (5) the information contained within such documents, testimony or
2 discovery responses so properly designated.

3 2.4 “HIGHLY CONFIDENTIAL-ATTORNEY’S EYES ONLY” shall be limited
4 to such documents, testimony, information or other things that the Designating Party
5 believes, in good faith, contain sensitive and/or highly competitive information the
6 disclosure of which is likely to cause substantial harm to the competitive position of the
7 Designating Party, contain information in the way of social security numbers, account
8 numbers or other sensitive information that is subject to the right of privacy of any person,
9 or contain information alleged to be a sensitive and/or highly competitive trade secret the
10 disclosure of which is likely to cause substantial harm to the competitive position. None
11 of the restrictions set forth in this Stipulated Protective Order shall apply to any documents
12 or other information that are or become public knowledge by means not in violation of the
13 provisions of this Stipulated Protective Order, or any law or statute.

14 2.5 Counsel: Outside Counsel of Record and House Counsel (as well as
15 their support staff).

16 2.6 Designating Party: a Party or Non-Party that designates information or
17 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or
18 “HIGHLY CONFIDENTIAL-ATTORNEY’S EYES ONLY.”

19 2.7 Disclosure or Discovery Material: all items or information, regardless
20 of the medium or manner in which it is generated, stored, or maintained (including, among
21 other things, testimony, transcripts, and tangible things), that are produced or generated in
22 disclosures or responses to discovery in this matter.

23 2.8 Expert: a person with specialized knowledge or experience in a matter
24 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as an
25 expert witness or as a consultant in this Action, (2) is not a current employee of a Party or
26 competitor of a Party, and (3) at the time of retention, is not anticipated to become an
27 employee of a Party or competitor of a Party.

1 2.9 House Counsel: attorneys who are employees of a party to this Action.
2 House Counsel does not include Outside Counsel of Record or any other outside counsel.

3 2.10 Non-Party: any natural person, partnership, corporation, association, or
4 other legal entity not named as a Party to this Action.

5 2.11 Outside Counsel of Record: attorneys who are not employees of a party to this
6 Action but are retained to represent or advise a party to this Action and have appeared in
7 this Action on behalf of that party or are affiliated with a law firm which has appeared on
8 behalf of that party, and includes support staff.

9 2.12 Party: any party to this Action, including all of its officers, directors,
10 employees, consultants, retained experts, and Outside Counsel of Record (and their
11 support staffs).

12 2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
13 Material in this Action.

14 2.14 Professional Vendors: persons or entities that provide litigation support
15 services (e.g., photocopying, videotaping, translating, preparing exhibits or
16 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
17 their employees and subcontractors.

18 2.15 Protected Material: any Disclosure or Discovery Material that is designated as
19 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL-ATTORNEY’S EYES ONLY.”

20 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material from
21 a Producing Party.

22 **3. SCOPE**

23 The protections conferred by this Stipulation and Order cover not only Protected
24 Material (as defined above), but also (1) any information copied or extracted from
25 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
26 Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel
27 that might reveal Protected Material. However, the protections conferred by this
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1 Stipulated Protective Order do not cover the following information: (1) any information
2 that is in the public domain at the time of disclosure to a Receiving Party or becomes part
3 of the public domain after its disclosure to a Receiving Party as a result of publication not
4 involving a violation of this Order, including becoming part of the public record through
5 trial or otherwise; and (2) any information known to the Receiving Party prior to the
6 disclosure or obtained by the Receiving Party after the disclosure from a source who
7 obtained the information lawfully and under no obligation of confidentiality to the
8 Designating Party.

9 Any use of Protected Material at trial shall be governed by the orders of the trial
10 judge. This Order does not govern the use of Protected Material at trial.

11 **4. DURATION**

12 Even after final disposition of this litigation, the confidentiality obligations imposed
13 by this Order shall remain in effect until a Designating Party agrees otherwise in writing or
14 a court order otherwise directs. Final disposition shall be deemed to be the later of (1)
15 dismissal of all claims and defenses in this Action, with or without prejudice; and (2) final
16 judgment herein after the completion and exhaustion of all appeals, rehearings, remands,
17 trials, or reviews of this Action, including the time limits for filing any motions or
18 applications for extension of time pursuant to applicable law.

19 **5. DESIGNATING PROTECTED MATERIAL**

20 5.1 Designating Material for Protection. Parties and Non-Parties may designate
21 Discovery Material as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL-
22 ATTORNEY’S EYES ONLY” where the material meets the requirements listed in
23 Sections 2.3 and 2.4, above.

24 5.2 Exercise of Restraint and Care in Designating Material for Protection. Each
25 Party or Non-Party that designates information or items for protection under this Order
26 must take care to limit any such designation to specific material that qualifies under the
27 appropriate standards. To the extent it is practical to do so, the Designating Party must
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1 designate for protection only those parts of material, documents, items, or oral or written
2 communications that qualify so that other portions of the material, documents, items, or
3 communications for which protection is not warranted are not swept unjustifiably within
4 the ambit of this Order.

5 Designations that are shown to be clearly unjustified or that have been made for an
6 improper purpose (e.g., to unnecessarily encumber the case development process or to
7 impose unnecessary expenses and burdens on other parties) may expose the Designating
8 Party to sanctions.

9 If it comes to a Designating Party's attention that information or items that it
10 designated for protection do not qualify for protection, that Designating Party must
11 promptly notify all other Parties that it is withdrawing the inapplicable designation.

12 5.3 Any Party May Designate Information Produced by Other Party. Any Party
13 may designate information or documents disclosed by another Party or Non-Party in
14 response to written discovery as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL-
15 ATTORNEY'S EYES ONLY" pursuant to this Order by so indicating in writing within 21
16 days after receipt of said information or documents, providing an identification by relevant
17 document numbers or other means of the document or information (or portion thereof) to
18 be so designated.

19 5.4 Manner and Timing of Designations. Disclosure or Discovery Material that
20 qualifies for protection under this Order must be clearly so designated before the material
21 is disclosed or produced.

22 Designation in conformity with this Order requires:

23 (a) for information in documentary form (e.g., paper or electronic documents, but
24 excluding transcripts of depositions or other pretrial or trial proceedings), that the
25 Producing Party affix at a minimum, the legend "CONFIDENTIAL" or "HIGHLY
26 CONFIDENTIAL-ATTORNEY'S EYES ONLY" to each page that contains protected
27 material. If only a portion or portions of the material on a page qualifies for protection, the
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1 Producing Party also must clearly identify the protected portion(s) by making appropriate
2 markings in the margins or by some other method that clearly designates such portions as
3 Protected Material.

4 A Party or Non-Party that makes original documents available for inspection need
5 not designate them for protection until after the inspecting Party has indicated which
6 documents it would like copied and produced. During the inspection and before the
7 designation, all of the material made available for inspection shall be deemed
8 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL-ATTORNEY’S EYES ONLY.”
9 After the inspecting Party has identified the documents it wants copied and produced, the
10 Producing Party must determine which documents, or portions thereof, qualify for
11 protection under this Order. Then, before producing the specified documents, the
12 Producing Party must affix the “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL-
13 ATTORNEY’S EYES ONLY” legend to each page that contains Protected Material. If
14 only a portion or portions of the material on a page qualifies for protection, the Producing
15 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
16 markings in the margins).

17 (b) for testimony given in depositions or in other pretrial proceedings, that the
18 Designating Party identify the Disclosure or Discovery Material on the record, before the
19 close of the deposition, hearing, or other proceeding, all protected testimony and specify
20 the level of protection being asserted. When it is impractical to identify separately each
21 portion of testimony that is entitled to protection and it appears that substantial portions of
22 the testimony may qualify for protection, the Designating Party may invoke on the record
23 (before the deposition, hearing, or other proceeding is concluded) a right to have up to 21
24 days from the giving of the testimony to identify the specific portions of the testimony as
25 to which protection is sought and to specify the level of protection being asserted,
26 provided that the court reporter makes available a real time transcript; otherwise, the 21
27 day period shall begin to run from receipt of a paper bound transcript Only those portions
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1 of the testimony that are appropriately designated for protection within the 21 days shall be
2 covered by the provisions of this Stipulated Protective Order. Alternatively, a Designating
3 Party may specify, at the deposition or up to 21 days afterwards if that period is properly
4 invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY
5 CONFIDENTIAL-ATTORNEY’S EYES ONLY.”

6 The use of a document as an exhibit at a deposition shall not in any way affect its
7 designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL-ATTORNEY’S
8 EYES ONLY.”

9 Deposition transcript pages that reflect Protected Material must be separately bound
10 by the court reporter and may not be disclosed to anyone except as permitted under this
11 Order. The Designating Party shall inform the court reporter of these requirements.

12 (c) for information produced in some form other than documentary and for any
13 other tangible items, that the Producing Party affix in a prominent place on the exterior of
14 the container or containers in which the information is stored the legend
15 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL-ATTORNEY’S EYES ONLY.” If
16 only a portion or portions of the information warrants protection, the Producing Party, to
17 the extent practicable, shall identify the protected portion(s).

18 5.5 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
19 to designate qualified information or items does not, standing alone, waive the Designating
20 Party’s right to secure protection under this Order for such material. Upon timely
21 correction of a designation, the Receiving Party must make reasonable efforts to assure
22 that the material is treated in accordance with the provisions of this Order.

23 The Producing Party may subsequently designate Discovery Material as Protected
24 Material in the following manner: (a) the Producing Party must give prompt, written notice
25 to Outside Counsel for the Party to whom such documents, testimony, or other information
26 have been disclosed informing them that the information produced is designated Protected
27 Material; (b) Outside Counsel receiving notice of newly designated documents, testimony
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1 or other information, shall take reasonable steps to comply with such new designation,
2 including reasonable steps to retrieve any documents distributed inconsistent with such
3 new designation, but shall not be responsible for any disclosure to non-parties occurring
4 before receipt of notice; and (c) at its own expense, the Designating Party will provide the
5 Party receiving the notice with another copy of the documents, deposition testimony, or
6 other information that bears the appropriate designation.

7 5.6 Inspection of Factories and Land. The following applies to inspections of
8 factories and land, other than inspecting that which is viewable by the public at large from
9 a place where the public has right to be. Inspection observations (whether kept mental or
10 notated,) photographs, testing, and samples taken are “HIGHLY CONFIDENTIAL-
11 ATTORNEY’S EYES ONLY.” In accordance with usual procedures, an inspection
12 demand is to be pursuant to F.R.Civ.P., Rule 34. Rule 34(b)(1) provides that a demand for
13 inspection: “must describe with reasonable particularity each item or category of items to
14 be inspected” and Rule 34(a)(2) that a responding party: permit entry onto designated land
15 or other property possessed or controlled by the responding party, so that the requesting
16 party may inspect, measure, survey, photograph, test, or sample the property or any
17 designated object or operation on it.

18 These rules are construed to mean that a Rule 34 Inspection Demand specify with
19 particularity the categories of places within a factory for which inspection is to be sought
20 and to specify with particularity the categories of things for testing and sampling. Nothing
21 herein abridges a party from objecting to a demand for inspection of factory or land based
22 on domestic law of where the factory or land is situated and/or a contractual relationship
23 with a non-party to maintain confidentiality and seeking a further order of this court
24 protecting the objecting party from said inspection demand.

25 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

26 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation
27 of confidentiality at any time that is consistent with the Court’s Scheduling Order. Unless
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1 a prompt challenge is necessary to avoid foreseeable substantial unfairness, unnecessary
2 substantial economic burdens, or a significant disruption or delay of the litigation, a Party
3 does not waive its right to challenge a “CONFIDENTIAL” or “HIGHLY
4 CONFIDENTIAL-ATTORNEY’S EYES ONLY” designation.

5 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
6 process under Local Rule 37.1 et seq. To challenge a designation, the Challenging Party
7 shall initiate the dispute resolution process by providing the Designating Party and the
8 Named Parties with written notice of each designation at issue which describes the basis
9 for each challenge. Within 7 days of receipt of said notice, the Designating Party shall
10 provide the basis for the “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL-
11 ATTORNEY’S EYES ONLY” designation to the Challenging Parties and the Parties. The
12 parties shall attempt to resolve each challenge in good faith by conferring directly (in voice
13 to voice dialogue; other forms of communication are not sufficient) within 14 days of the
14 date of service of notice. A Challenging Party may proceed to the next stage of the
15 challenge process only if it has engaged in this meet and confer process first or establishes
16 that the Designating Party is unwilling to do so in a timely manner.

17 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
18 intervention, the Designating Party shall file and serve a Joint Stipulation concerning the
19 matters in dispute, pursuant to Local Rules 37-1 and 37-2, within 21 days of the initial
20 notice of challenge or within 14 days of the parties agreeing that the meet and confer
21 process will not resolve their dispute, whichever is earlier. Failure by the Designating
22 Party to make such a motion through the filing of a Joint Stipulation shall automatically
23 waive the confidentiality designation for each challenged designation, unless there was
24 non-cooperation by the Receiving Party or other good cause. In addition, if not
25 inconsistent with any restriction in this order, the Challenging Party may challenge a
26 confidentiality designation at any time if there is good cause for doing so, including a
27 challenge to the designation of a deposition transcript or any portions thereof.

1 6.4 The burden of persuasion in any such challenge proceeding shall be on the
2 Designating Party. Frivolous assertions of confidentiality and/or challenges, and those
3 made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens
4 on other parties) may expose the Designating Party or the Challenging Party, as the case
5 may be, to sanctions. Unless the Designating Party has waived or withdrawn the
6 confidentiality designation, all parties shall continue to afford the material in question the
7 level of protection to which it is entitled under the Producing Party’s designation until the
8 Court rules on the challenge.

9 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

10 7.1 Basic Principles. A Receiving Party may use Protected Material that is
11 disclosed or produced by another Party or by a Non-Party in connection with this Action
12 only for prosecuting, defending, or attempting to settle this Action. Such Protected
13 Material may be disclosed only to the categories of persons and under the conditions
14 described in this Order. When the Action has been terminated, a Receiving Party must
15 comply with the provisions of Section 14 below (FINAL DISPOSITION).

16 Protected Material must be stored and maintained by a Receiving Party at a location
17 and in a secure manner that ensures that access is limited to the persons authorized under
18 this Order.

19 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
20 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
21 may disclose Protected Material designated “CONFIDENTIAL” only to:

22 (a) the Receiving Party’s insurers and Outside Counsel of Record in this Action,
23 as well as employees of said Outside Counsel of Record to whom it is reasonably
24 necessary to disclose the information for this Action;

25 (b) the officers, directors, and employees (including House Counsel) of the
26 Receiving Party to whom disclosure is reasonably necessary for this Action;

1 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure
2 is reasonably necessary for this Action and who have signed the “Acknowledgment and
3 Agreement to Be Bound” (Exhibit A);

4 (d) the court and its personnel;

5 (e) deposition stenographic reporters, videographers, and their staff;

6 (f) professional jury or trial consultants, mock jurors, and Professional Vendors
7 to whom disclosure is reasonably necessary for this Action and who have signed the
8 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 (g) the author or recipient of a document containing the information or a
10 custodian or other person who otherwise possessed or knew the information;

11 (h) during their depositions, witnesses, and attorneys for witnesses, in the Action
12 to whom disclosure is reasonably necessary provided: (1) the deposing party requests that
13 the witness sign the form attached as Exhibit 1 hereto; and (2) they will not be permitted to
14 keep any confidential information unless they sign the “Acknowledgment and Agreement
15 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by
16 the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal
17 Protected Material may be separately bound by the court reporter and may not be disclosed
18 to anyone except as permitted under this Stipulated Protective Order;

19 (i) without need for compliance with subparagraph (h), at any deposition of:

20 1. a witness who is an employee or agent of a party may be shown and
21 questioned on that party’s confidential information;

22 2. a witness who is an author or recipient of a document containing
23 confidential information, is a custodian or a person who otherwise possessed
24 or knew the information may be shown and questioned on that document
25 and/or information;

26 3. a deponent whom the Party designates under Rule 30(b)(6) regarding the
27 Rule 30(b)(6) topic(s) to which that Party’s confidential information pertains,
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1 the witness will not be permitted to keep any confidential information unless they sign the
2 “Acknowledgment and Agreement to Be Bound” (Exhibit A), or otherwise agreed by the
3 Designating Party or ordered by the court. Pages of transcribed deposition testimony or
4 exhibits to depositions that reveal Protected Material may be separately bound by the court
5 reporter and may not be disclosed to anyone except as permitted under this Stipulated
6 Protective Order

7 (j) in preparation for trial ~~testimonial~~ testimony, confidential information which that
8 witness was questioned on during deposition and

9 (k) any mediator or settlement officer, and their supporting personnel, mutually
10 agreed upon by any of the parties engaged in settlement discussions.

11 7.3 Disclosure of “HIGHLY CONFIDENTIAL-ATTORNEY’S EYES ONLY”
12 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
13 Designating Party, a Receiving Party may disclose Protected Material designated
14 “HIGHLY CONFIDENTIAL ATTORNEY’S EYES ONLY” only to the following
15 persons:

16 (a) the Receiving Party’s Outside Counsel in this action, as well as Outside
17 Counsel’s employees to whom it is reasonably necessary to disclose the information for
18 this Action and who have signed the “Acknowledgment and Agreement to Be Bound”
19 (Exhibit A);

20 (b) Experts (as defined in this Order) of the Receiving Party to whom disclosure
21 is reasonably necessary for this Action and who have signed the “Acknowledgment and
22 Agreement to Be Bound” (Exhibit A);

23 (c) the court and its personnel;

24 (d) deposition stenographic reporters and videographers and their staff;

25 (e) Professional Vendors to whom disclosure is reasonably necessary for this
26 Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
27 A); and

1 (f) during depositions, the author or recipient of a document containing the
2 highly confidential information or a custodian or other person who otherwise possessed or
3 knew the highly confidential information,

4 (g) during depositions, a deponent whom the party designates under Rule
5 30(b)(6) regarding the Rule 30(b)(6) topic(s) to which that Party's highly confidential
6 information pertains;

7 (h) in preparation for trial ~~testimonial~~ testimony, highly confidential information
8 which that witness was questioned during deposition and

9 (g) any mediator or settlement officer, and their supporting personnel, mutually
10 agreed upon by any of the parties engaged in settlement discussions.

11 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
12 **OTHER LITIGATION**

13 If a Party is served with a subpoena or a court order issued in other litigation that
14 compels disclosure of any information or items designated in this Action as Protected
15 Material, that Party must:

16 (a) promptly notify in writing the Designating Party. Such notification shall
17 include a copy of the subpoena or court order;

18 (b) promptly notify in writing the party who caused the subpoena or order to
19 issue in the other litigation that some or all of the material covered by the subpoena or
20 order is subject to this Protective Order. Such notification shall include a copy of this
21 Stipulated Protective Order; and

22 (c) cooperate with respect to all reasonable procedures sought to be pursued by
23 the Designating Party whose Protected Material may be affected, at the Designating
24 Party's expense.

25 If the Designating Party timely seeks a protective order by a motion that is proper
26 under the law so as to suspend the obligation to produce, the Party served with the
27 subpoena or court order shall not produce the Protected Material before a determination by
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1 the court from which the subpoena or order issued that the Protected Material must be
2 produced ~~and compliance with said determination is not a violation of this order~~, unless
3 the Party has obtained the Designating Party's permission. The Designating Party shall
4 bear the burden and expense of seeking protection in that court of its confidential material
5 and nothing in these provisions should be construed as authorizing or encouraging a
6 Receiving Party in this Action to disobey a lawful directive from another court.

7 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED**
8 **IN THIS LITIGATION**

9 (a) The terms of this Order are applicable to information produced by a Non-
10 Party in this Action and designated as "CONFIDENTIAL." Such information produced by
11 Non-Parties in connection with this litigation is protected by the remedies and relief
12 provided by this Order. Nothing in these provisions should be construed as prohibiting a
13 Non-Party from seeking additional protections.

14 (b) In the event that a Party is required, by a valid discovery request, to produce a
15 Non-Party's confidential information in its possession, and the Party is subject to an
16 agreement with the Non-Party not to produce the Non-Party's confidential information,
17 then the Party shall:

18 (1) promptly notify in writing the Requesting Party and the Non-Party that
19 some or all of the information requested is subject to a confidentiality agreement with a
20 Non-Party;

21 (2) promptly provide the Non-Party with a copy of the Stipulated
22 Protective Order in this Action, the relevant discovery request(s), and a reasonably specific
23 description of the information requested; and

24 (3) make the information requested available for inspection by the Non-
25 Party, if requested.

26 (c) If the Non-Party fails to seek a protective order from this court within 14 days
27 of receiving the notice and accompanying information, the Receiving Party may produce

1 the Non-Party's confidential information responsive to the discovery request. If the Non-
2 Party timely seeks a protective order by a motion that is proper under the law so as to
3 suspend the obligation to produce, the Receiving Party shall not produce any information
4 in its possession or control that is subject to the confidentiality agreement with the Non-
5 Party before a determination by the court ~~and compliance with said determination is not a~~
6 ~~violation of this order~~. Absent a court order to the contrary, the Non-Party shall bear the
7 burden and expense of seeking protection in this court of its Protected Material.

8 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
10 Protected Material to any person or in any circumstance not authorized under this
11 Stipulated Protective Order, the Receiving Party must immediately (a) notify the
12 Designating Party in writing what was disclosed and to whom, (b) use its best efforts to
13 retrieve all Protected Materials improperly disseminated, including all copies, (c) inform
14 the person or persons to whom such unauthorized disclosures were made of all the terms
15 of this Order, and (d) request such person or persons to execute the "Acknowledgment and
16 Agreement to Be Bound" that is attached hereto as Exhibit A.

17 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
18 **PROTECTED MATERIAL**

19 The inadvertent disclosure of a document that a Producing Party believes is subject
20 to privilege or work product protection shall not constitute a waiver or estoppel of any
21 such privilege or protection. In the event of such inadvertent disclosure, the producing
22 party may provide written notice of same and request that all copies of any such
23 documents be returned, whereupon the Receiving Party shall return all copies of such
24 documents, delete them from its files, destroy all notes or other work product that reflect
25 them, and shall not use the documents in any way.

26 When a Producing Party gives notice to Receiving Parties that certain inadvertently
27 produced material is subject to a claim of privilege or other protection, the obligations of
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1 the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B).
2 This provision is not intended to modify whatever procedure may be established in an e-
3 discovery order that provides for production without prior privilege review. Pursuant to
4 Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the
5 effect of disclosure of a communication or information covered by the attorney-client
6 privilege or work product protection, the parties may incorporate their agreement in the
7 stipulated protective order submitted to the court.

8 **12. FILING PROTECTED MATERIAL IN COURT.**

9 12.1 Filing Protected Materials. A Party that seeks to file under seal any Protected
10 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
11 under seal pursuant to a court order authorizing the sealing of the specific Protected
12 Material at issue. If a Party's request to file Protected Material under seal is denied by the
13 court, then the Receiving Party may file the information in the public record unless
14 otherwise instructed by the court.

15 12.2 This Order does not govern the treatment of Protected Material at trial, which
16 shall be later raised by the parties ~~but~~ and separately addressed by the Court.

17 **13. MISCELLANEOUS**

18 13.1 Right to Further Relief. Nothing in this Order abridges the right of any person
19 to seek its modification by the Court in the future.

20 13.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
21 Order, no Party waives any right it otherwise would have to object to disclosing or
22 producing any information or item on any ground not addressed in this Stipulated
23 Protective Order. Similarly, no Party waives any right to object on any ground to use in
24 evidence of any of the material covered by this Protective Order.

25 **14. FINAL DISPOSITION**

26 After the final disposition of this Action, as defined in Section 4, within 60 days of
27 a written request by the Designating Party, each Receiving Party must return all Protected
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1 Material to the Producing Party or destroy such material. As used in this subdivision, “all
2 Protected Material” includes all copies, abstracts, compilations, summaries, and any other
3 format reproducing or capturing any of the Protected Material. Whether the Protected
4 Material is returned or destroyed, the Receiving Party must submit a written certification
5 to the Producing Party (and, if not the same person or entity, to the Designating Party) by
6 the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected
7 Material that was returned or destroyed and (2) affirms that the Receiving Party has not
8 retained any copies, abstracts, compilations, summaries or any other format reproducing or
9 capturing any of the Protected Material. Notwithstanding this provision, Counsel are
10 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and
11 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
12 reports, attorney work product, and consultant and expert work product, even if such
13 materials contain Protected Material. Any such archival copies that contain or constitute
14 Protected Material remain subject to this Protective Order as set forth in Section 4
15 (DURATION).

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15. Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: April 11, 2018
LAW OFFICES OF DAVID YOUNG
By: /s/ David Young
David Young
Attorneys for Plaintiffs
IconLab Inc., Icon Lab GmbH, and Reper-NN,
Co. Ltd.

Dated: April 11, 2018
HUESTON HENNIGAN LLP
By: /s/ Steven N. Feldman
Moez M. Kaba
Steven N. Feldman
Attorneys for Defendants
Valeant Pharmaceuticals International, Inc. and
Bausch & Lomb Incorporated

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Dated: April 16, 2018
Karen E. Scott
Karen E. Scott
United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], have been presented with a Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of *Iconlab Inc., et al. v. Valeant Pharmaceuticals International, Inc., et al.*, Case No. 8:16-cv-01321-JLS-KES. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

Printed name: _____

Signature: _____