

1 Matthew B. Lehr (Bar No. 213139)
 Suong T. Nguyen (Bar No. 237557)
 2 David J. Lisson (Bar No. 250994)
 Chung G. Suh (Bar No. 244889)
 3 Jeremy Brodsky (Bar No. 257674)
 DAVIS POLK & WARDWELL LLP
 4 1600 El Camino Real
 Menlo Park, California 94025
 5 Telephone: (650) 752-2000
 Facsimile: (650) 752-2111

6 Attorneys for Plaintiff
 7 Tyco Healthcare Group LP d/b/a
 VNUS Medical Technologies

8 UNITED STATES DISTRICT COURT
 9
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 11
 12 SAN FRANCISCO DIVISION

11 TYCO HEALTHCARE GROUP LP d/b/a
 12 VNUS MEDICAL TECHNOLOGIES,
 13 Plaintiff,
 14 v.
 15 BIOLITEC, INC., DORNIER MEDTECH
 AMERICA, INC., and NEW STAR LASERS,
 16 INC. d/b/a COOLTOUCH, INC.,
 17 Defendants.

LEAD CASE NO. C08-03129 MMC
 CASE NO. C08-03129 MMC

~~PROPOSED~~ ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION AND AMENDED MOTION FOR ADMINISTRATIVE RELIEF TO FILE DOCUMENTS UNDER SEAL (D.I. 176 & 195)

[CIVIL L.R. 7-11, 79-5(d)]

19
 20 TYCO HEALTHCARE GROUP LP d/b/a
 VNUS MEDICAL TECHNOLOGIES,
 21 Plaintiff,
 22 v.
 23 TOTAL VEIN SOLUTIONS, LLC d/b/a
 24 TOTAL VEIN SYSTEMS,
 25 Defendant.

CASE NO. C08-04234 MMC
 (consolidated with C08-3129 MMC)

1 Before the Court is the Defendants' Motion and Amended Motion for Administrative Relief
2 to File Documents Under Seal dated June 25 and June 28, 2010, by which Defendants seek leave to
3 file under seal unredacted versions of certain documents submitted in support of a Motion for
4 Summary Judgment that the '084 Patent Claims are Obvious ("Defendants' § 103 Brief"), a Motion
5 for Summary Judgment that the Asserted '433 and '970 Claims are Invalid for Lack of Written
6 Description ("Defendants' § 112 Brief"), and a Motion for Summary Judgment of No Contributory
7 Infringement ("TVS's Brief") (collectively, "Defendants' Briefs"). Having reviewed the parties'
8 submissions filed in support of the motion, the Court rules as follows:

9 1. The motion is GRANTED in part, specifically, as to the following documents that
10 plaintiff has shown contain material properly filed under seal (see Kertz Decl., filed July 1, 2010),
11 ~~each of which the Clerk is directed to file under seal;~~ each of which the requesting party is
12 directed to file under seal, no later than five calendar days from the date of this order. See General
13 Order 62 ("If a motion to file under seal is granted in full or in part, the requesting party will e-file
14 the document according to the procedures outlined in the FAQs on the ECF website.").

- 16 • Exhibits 12, 13 (bates-stamped page VNUS_143788), 20 (bates-stamped pages
17 VNUS_145041-42), 21, 29 (transcript pages 71-73), 30, 31, 38, 42 (bates-stamped
18 pages VNUS001123-24), 43-45, 48, 49, 50 (transcript pages 3-4, 86), 55-57, 60, and
19 62-65 to the Declaration of Charles Steenburg in Support of Defendants' § 103 Brief
20 and Defendants' § 112 Brief, filed on June 25, 2010
- 21 • Exhibit P (transcript pages 3-6) to the Declaration of John K. Buche in Support of
22 TVS's Brief, filed on June 25, 2010
- 23 • Redacted pages 2 (lns. 14-16), 5 (lns. 10-25), and 8 (lns. 4-5) of Defendants' § 112
24 Brief, filed on June 25, 2010
- 25 • Redacted pages 6 (lns. 19-21), 9 (lns. 16-18), 14 (lns. 14-17), 19 (fn. 11), 20 (lns.
26 15-18, 21-25), and 21 (lns. 6-10) of Defendants' § 103 Brief, filed on June 25, 2010

1 2. The motion is DENIED in part, specifically, as to the following documents, in light
2 of plaintiff's having withdrawn its prior designation of confidentiality, ~~and the Clerk is directed to~~
3 ~~file such documents in the public record;~~ each of which the requesting party is directed to file in
4 the public record no later than five calendar days from the date of this order.

- 5
- 6 • Exhibits 6, 34, 35, 41, 47, and 54 to the Declaration of Charles Steenburg in Support
7 of Defendants' § 103 Brief and Defendants' § 112 Brief, filed on June 25, 2010
- 8 • Exhibits Q, DD, and MM to the Declaration of John K. Buche in Support of TVS's
9 Brief, filed on June 25, 2010
- 10 • Designated portions of Defendants' Briefs not identified above.

11 IT IS SO ORDERED.

12 Dated: July 12 _____ 2010

/s/ Vaughn R Walker for

HON. MAXINE M. CHESNEY
United States District Judge