

EXHIBIT 1

1 Matthew B. Lehr (Bar No. 213139)
Diem-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

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

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

11 TYCO HEALTHCARE GROUP LP d/b/a) LEAD CASE NO. C08-03129 MMC
12 VNUS MEDICAL TECHNOLOGIES,)

13 Plaintiff,)

14 v.)

15 BIOLITEC, INC., and NEW STAR LASERS,)
INC. d/b/a COOLTOUCH, INC.,)

16 Defendants.)
17)

18 TYCO HEALTHCARE GROUP LP d/b/a)
19 VNUS MEDICAL TECHNOLOGIES,)

20 Plaintiff,)

21 v.)

22 TOTAL VEIN SOLUTIONS, LLC d/b/a)
23 TOTAL VEIN SYSTEMS,)

24 Defendant.)
25)
26)
27)
28)

CASE NO. C08-03129 MMC

**[PROPOSED] AMENDMENT TO
PLAINTIFF'S DISCLOSURE OF
ASSERTED CLAIMS AND
INFRINGEMENT CONTENTIONS**

CASE NO. C08-04234 MMC
(consolidated with C08-03129 MMC)

1 Plaintiff Tyco Healthcare Group LP d/b/a VNUS Medical Technologies (“VNUS”)
2 served its Infringement Contentions pursuant to Patent Local Rule 3-1 on February 12, 2009—
3 before substantial discovery in this case had taken place and before certain of the Defendants’
4 accused products were commercialized—based on the limited information then available to
5 VNUS. Both fact and expert discovery concluded more than a year after VNUS served its
6 Infringement Contentions. Given this sequence, VNUS’s Infringement Contentions were
7 understandably non-exhaustive with respect to the listing of Defendants’ accused products,
8 despite VNUS’s diligent discovery efforts before the service of its Infringement Contentions.

9 VNUS therefore amends its Infringement Contentions so as to supplement its
10 identification of the accused products sold by Defendants New Star Lasers, Inc. d/b/a
11 CoolTouch, Inc. (“CoolTouch”) and Total Vein Solutions, LLC d/b/a Total Vein Systems
12 (“TVS”). The tables attached as Supplemental Exhibits B and D, respectively, identify
13 additional CoolTouch and TVS products that (1) VNUS alleges are used to practice the claimed
14 methods of the asserted claims and (2) were previously disclosed in these Defendants’ responses
15 and supplemental responses to VNUS’s Interrogatory No. 1 and in the report of VNUS’s
16 damages expert Julie L. Davis, served on April 2, 2010.

17
18 Dated: August 26, 2010

DAVIS POLK & WARDWELL LLP

19
20
21 By: /s/ Chung G. Suh
22 Matthew B. Lehr (Bar No. 213139)
23 Diem-Suong T. Nguyen (Bar No. 237557)
24 David J. Lisson (Bar No. 250994)
25 Chung G. Suh (Bar No. 244889)
26 Jeremy Brodsky (Bar No. 257674)

27
28 Attorneys for Plaintiff Tyco Healthcare Group LP
d/b/a VNUS Medical Technologies

1 **SUPPLEMENTAL EXHIBIT B**

2 CoolTouch Accused Products *Additional* to Those Disclosed in Exhibit B to VNUS's
3 Infringement Contentions, dated February 12, 2009:

- 4
- 273µm 5-Use Non-CE CTEV (7420-0019)
 - 273µm 5-Use Non-CE Hand Veins (7420-0040)
 - Joule Tracker Trio: 0.5 1 & 2mm/sec (7300-0043)
 - Joule Tracker NS160: 0.5 1 & 2mm/sec (7300-0049)
- 5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1 **SUPPLEMENTAL EXHIBIT D**

2 TVS Accused Products *Additional* to Those Disclosed in Exhibit D to VNUS's Infringement
3 Contentions, dated February 12, 2009:

- 4
- Thermalite 1470 Laser
 - Optical Advantage 1500 Laser
 - 5 • 600 Micron Laser Fibers (TVSP0063SI, TVSP0063SIR, TVSP0063CP,
6 TVSP0063ES)
 - 400 Micron Laser Fibers (TVSP0034SI)
 - 7 • One-Step Introducer Kits (TVS 2045 SN)
 - Custom Packs (TVS4018, TVS4029)
 - 8 • Universal Procedure Packs (TVS4002CMP, TVS4003CMP, TVS4005CMP)
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28