

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 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 10 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
 PLAINTIFF'S MOTION FOR
 ADMINISTRATIVE RELIEF TO FILE
 DOCUMENTS UNDER SEAL; VACATING
 SEPTEMBER 10, 2010 ORDER [DOCUMENT
 NO. 305]
 [CIVIL LOCAL RULES 7-11, 79-5]

18
 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 Plaintiff's Motion for Administrative Relief to File Documents
2 Under Seal dated August 30, 2010, by which Plaintiff seeks leave to file under seal unredacted
3 versions of certain documents submitted in support of Plaintiff's Notice of Motion and Brief in
4 Support of its Motion *in Limine* No. 1 to Exclude Testimony and the Use of Prior Testimony
5 Regarding Certain Alleged Uses by Drs. Bush, Mercier and Dunne. Having reviewed the
6 submissions filed in support of the motion, the Court rules as follows:

7 1. The motion is GRANTED as to the following documents that ~~the parties or former~~
8 party Dornier MedTech America, Inc. ("Dornier") ~~have~~ ^{has} shown contain material properly filed
9 under seal, each of which the requesting party is directed to file under seal, no later than ~~five~~
10 ~~calendar days from the date of this order:~~ ¹ September 21, 2010

11 Pages 71-75

- 12 • ~~Designated portions~~ of Exhibit 4 to the Declaration of Jeremy Brodsky in Support of
13 Plaintiff's Notice of Motion and Brief in Support of its Motion *in Limine* No. 1 to
14 Exclude Testimony and the Use of Prior Testimony Regarding Certain Alleged Uses
15 by Drs. Bush, Mercier and Dunne, which have been designated by Dornier.
- 16 • Designated portions of Plaintiff's Notice of Motion and Brief in Support of its
17 Motion *in Limine* No. 1 to Exclude Testimony and the Use of Prior Testimony
18 Regarding Certain Alleged Uses by Drs. Bush, Mercier and Dunne, dated August
19 30, 2010, which reflect confidential information of ~~Defendants and~~ Dornier.

20 2. The motion is DENIED as to Exhibit 13 to the Declaration of Jeremy Brodsky
21 (excerpts from deposition of Jose I. Almeida, M.D.), and any page of Exhibit 4 other than those
22 identified above; plaintiff is DIRECTED to file said documents in the public record no later than
23 September 21, 2010.

24 3. The Court's September 10, 2010 order [Document No. 305] is vacated.

25 4. Plaintiff's motion requesting that Document Nos. 307 and 308 be removed from the
26 public docket is GRANTED.

27 IT IS SO ORDERED.

28 Dated: September 15 2010



HON. MAXINE M. CHESNEY
United States District Judge

¹ Dornier's showing was made after the Court issued its order of September 10, 2010.