

1 Joseph D. Miller State Bar No. 109032
 Leslie J. Mann State Bar No. 95467
 2 EPSTEIN BECKER & GREEN, P.C.
 One California Street, 26th Floor
 3 San Francisco, California 94111-5427
 Telephone: 415.398.3500
 4 Facsimile: 415.398.0955
jmiller@ebglaw.com
 5 lmann@ebglaw.com

6 Attorneys for Plaintiff and Counter-defendant
 Stiefel Laboratories, Inc.

7
 8 Mark A. Neubauer (SBN 73727)
 Email: mneubauer@steptoe.com
 Dylan Ruga (SBN 235969)
 9 Email: druga@steptoe.com
 STEPTOE & JOHNSON LLP
 10 2 12 1 Avenue of the Stars, Suite 2800
 Los Angeles, California 90067-5052
 11 Ph: 310.734.3200
 Fax: 310.734.3300

E-FILED - 4/16/09

12 Attorneys for Defendant and Counter-Plaintiff
 13 PIERRE FABRE DERMATOLOGIE

14
 15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

17 STIEFEL LABORATORIES, INC.,
 a Delaware corporation,

18 Plaintiff,

19 v.

20 PIERRE FABRE DERMATOLOGIE,

21 Defendants.

22 PIERRE FABRE DERMATOLOGIE,
 a French corporation,

23 Counterclaim/Plaintiff,

24 v.

25 STIEFEL LABORATORIES, INC.,

26 Counterclaim/Defendants.
 27

CASE NO. 5:08-cv-04764

**STIPULATION FOR DISMISSAL
 WITHOUT PREJUDICE AND ORDER**

28
 Stipulation for Dismissal without Prejudice; Order
 Case No. 5:08-cv-04764

1 IT IS HEREBY STIPULATED by and between the parties to this action through
2 Plaintiff/Counter-Defendant Stiefel Laboratories, Inc. ("Stiefel") and Defendant/Counter-
3 Plaintiff Pierre Fabre Dermatologie ("Pierre Fabre"), by and through their respective counsel,
4 that

5 1. The instant action, including all counterclaims, shall be dismissed in its entirety
6 without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(2);

7 2. Any controversy, action or legal proceeding arising out of or relating to the
8 License Agreement executed by Connetics, Inc. and Pierre Fabre in September 2004 and/or any
9 amendment thereto ["the Agreement"] shall be brought exclusively in the United States District
10 Courts for the Northern District of California. The parties intend this paragraph to be given the
11 broadest interpretation to include all contract and tort actions by either of them or any affiliated
12 party arising out of or relating to the Agreement;

13 3. This Court and its appellate courts shall have exclusive jurisdiction of any such
14 action or legal proceeding and each party waives any objection to venue or jurisdiction in
15 connection therewith. This Court has subject matter jurisdiction over all claims and
16 counterclaims pursuant to 28 U.S.C. § 1332 because: (1) there is complete diversity of
17 citizenship between the parties (Pierre Fabre is a French corporation with its principal place of
18 business in Boulogne, France; Stiefel is a Delaware corporation with its principal place of
19 business in Florida); and (2) the amount in controversy exceeds \$75,000, exclusive of interest
20 and costs;

21 4. In the event any controversy, action or legal proceeding arising out of or relating
22 to the Agreement is brought or filed in any court other than the United States District Court for
23 the Northern District of California, including any foreign tribunal, the filing party shall bear all
24 reasonable costs and attorneys' fees incurred by the defending party to enforce this Stipulation
25 and Order;

26 5. The statute of limitations for any such action or legal proceeding is tolled on the
27 entry of this dismissal for a period of one year, but this provision shall operate prospectively only
28 and have no effect on time already passed;

1 6. Persons with full power to resolve any and all controversies before the parties
2 shall meet in Paris on April 10, 2009 to attempt to resolve the issues pertaining to their
3 relationship. Neither party shall have a lawyer present. The discussions attempting to resolve
4 these issues are entitled to all of the protections of California Evidence Code 1152 and Federal
5 Rule of Evidence 408. If the parties are unsuccessful in executing a written agreement
6 confirming a resolution to their mutual satisfaction within 2 months from the date of execution of
7 this Stipulation (which time can be extended by mutual written agreement), the parties shall
8 thereafter within 2 months engage in a mediation in London, England. The purpose of the
9 mediation is to reach a resolution of all controversies between the parties. The mediator fees
10 shall be borne equally by the parties and each party shall each bear its own costs and attorneys'
11 fees for the mediation. The mediator shall be chosen by agreement between the parties. The
12 time for this mediation may be extended up to 2 additional months by mutual written agreement.

13 //
14 //
15 //
16 //
17 //
18 //
19 //

20 [THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

21 //
22 //
23 //
24 //
25 //
26 //
27 //
28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. Each party bears its own costs and attorneys' fees incurred in this action.

IT IS SO STIPULATED.

DATED: April 6, 2009

EPSTEIN BECKER & GREEN, P.C.

By: /s/ Leslie J. Mann

Joseph D. Miller

Leslie J. Mann

Attorneys for Plaintiff and Counter-Defendant
Stiefel Laboratories, Inc.

DATED: April 6, 2009

STEPTOE & JOHNSON LLP

By:


Mark A. Neubauer

Dylan Ruga

Attorneys for Defendant

PIERRE FABRE DERMATOLOGIE

IT IS SO ORDERED.

DATED: 4/16/09


UNITED STATES DISTRICT COURT JUDGE