

**** E-filed February 25, 2011 ****

1 SAMUEL F. MILLER, ESQ.
(TN BPR No. 22936)
2 BAKER DONELSON BEARMAN
3 CALDWELL & BERKOWITZ, P.C.
Baker Donelson Centre
4 211 Commerce Street, Suite 800
Nashville, TN 37201
5 Telephone: (615) 726-5594
6 Facsimile: (615) 744-5594
smiller@bakerdonelson.com

MICHAEL H. RUBIN, ESQ.
(CAL. SBN 214636)
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304
Telephone: (650) 493-9300
Facsimile: (650) 493- 6811
mrubin@wsgr.com

Attorneys for Defendant,
GOOGLE, INC.

7
8 TERRY J. MOLLICA, ESQ.
(CAL. SBN 139816)
9 CHIARELLI & MOLLICA LLP
2121 N. CALIFORNIA BLVD., SUITE 520
WALNUT CREEK, CA 94596
10 Telephone: (925) 262-4888
Facsimile: (925) 262-4889
11 TJM@CMLAWOFFICES.COM

12 Attorneys for Plaintiff's
13 KING PHARMACEUTICALS, INC.;
14 MONARCH PHARMACEUTICALS, INC.;
15 KING PHARMACEUTICALS RESEARCH
AND DEVELOPMENT, INC.;
and GENTRAC, INCORPORATED

16
17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19 **SAN JOSE DIVISION**

20 KING PHARMACEUTICALS, INC.;) Case No.: CV11-80017 MISC
21 MONARCH PHARMACEUTICALS, INC.;)
22 KING PHARMACEUTICALS RESEARCH) [U.S.D.C. Eastern District of Tennessee Case
AND DEVELOPMENT, INC.; and) No.: 09-cv-00244]
23 GENTRAC, INCORPORATED,)
24) **STIPULATION AND ~~PROPOSED~~**
Plaintiffs,) **ORDER STRIKING CONFIDENTIAL**
25 v.) **INFORMATION FROM DOCKET AND**
26 ZYMOGENETICS, INC. and JOHN AND) **RE-SETTING HEARING ON MOTION**
JANE DOES 1-50.) **TO COMPEL**
27)
28)

STIPULATION AND ~~PROPOSED~~ ORDER STRIKING
CONFIDENTIAL INFORMATION FROM DOCKET AND
RESETTING HEARING ON MOTION TO COMPEL AND
PROPOSED ORDER

Case No.: CV11-80017 MISC

1 WHEREAS, an Agreed Protective Order exists in the underlying action entitled *King*
2 *Pharmaceuticals, et al. v. Zymogenetics, Inc., et al.*, U.S.D.C. Eastern District of Tennessee Case No.:
3 09-cv-00244 (“the Action”), a true and correct copy of which is attached hereto as Exhibit A and
4 incorporated by this reference as though set forth in full. Among other things, the Agree Protective
5 Order provides at Paragraph 17 that, “Any third party producing documents or things or giving
6 testimony in this litigation pursuant to a subpoena, notice or request may designate said documents,
7 things, or testimony as “Confidential” or “Highly Confidential/Attorneys’ Eyes Only.”

8 WHEREAS, in Google’s production of records pursuant to the subpoena *duces tecum* issued in
9 connection with the Action, it designated one or more documents as “Confidential and Proprietary –
10 For Attorney’s Eyes Only,” including the document that is the subject matter of this Stipulation, as
11 described more specifically below.

12 WHEREAS, the document in question was filed with the Court as Exhibit H to King’s Exhibits
13 in Support of Combined Motions to Compel Production of Documents Pursuant to Subpeona *Duces*
14 *Tecum* and to Show Cause (Docket Entry No. 4) in support of King’s pending combined motion to
15 compel and to show cause, which motion is currently set for hearing on March 22, 2011 (“the
16 Motion”).¹

17 WHEREAS, King contends that it inadvertently filed Exhibit H without first seeking an order
18 to file it under seal.

19 WHEREAS, the parties hereto desire to preserve and protect Google’s claim of confidentiality
20 by having Exhibit H stricken from the public record and destroyed pending a possible motion to re-file
21 Exhibit H under seal pursuant to Civil Local Rules 7-11 and 79-5 and this Court’s General Order No.
22 62.

23 WHEREAS, the parties hereto are meeting and conferring regarding the subject of the Motion,
24 with the aim of informally resolving them prior to the hearing of the Motion, but believe that
25 additional time would be conducive to completing such efforts.

26 WHEREAS, the parties reserve all rights with regard to this matter.

27 _____
28 ¹ Because the Exhibits were an oversized document, none of the Exhibits, including Exhibit H, were made available to the public through the ECF system or PACER.

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

NOW, THEREFORE, the undersigned parties to hereby stipulate and agree as follows:

1. The hearing of the Motion shall be continued by agreement of the parties from **March 22, 2011**, to **April 19, 2011**, commencing at **10:00 a.m.**, in Courtroom 2 of the Northern District of California, San Jose Division, the Hon. Magistrate Judge Howard R. Lloyd, presiding, with all other deadlines accordingly reset;
2. The parties hereto stipulate and agree to further meet and confer in an effort to informally resolve this matter and avoid a hearing;
3. The parties hereto stipulate and agree that Exhibit H of King's Exhibits in Support of Combined Motions to Compel Production of Documents Pursuant to Subpeona *Duces Tecum* and to Show Cause (Docket 4) should be stricken from the record but that King may re-file Exhibit H under seal at any time on or prior to March 29, 2011.

The foregoing is stipulated and agreed by:

Dated: February 22, 2011

CHIARELLI & MOLLICA LLP



By
TERRY J. MOLLICA
Attorneys for Plaintiffs KING PHARMACEUTICALS, INC., MONARCH PHARMACEUTICALS, INC., KING PHARMACEUTICALS RESEARCH AND DEVELOPMENT, INC. and GENTRAC, INCORPORATED

Dated: February 22, 2011

WILSON SONSINI GOODRICH & ROSATI

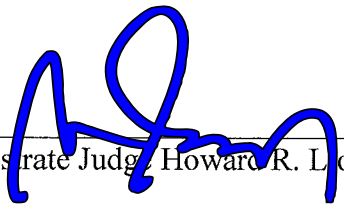


By
MICHAEL H. RUBIN, ESQ.
Attorneys for Defendants GOOGLE, Inc.

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

IT IS SO ORDERED.

DATED: February 25, 2011



Hon. Magistrate Judge Howard R. Lloyd