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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ALLERGAN, INC.,)

CASE NO. SACV 11-446 AG (Ex)

Plaintiff,)

INJUNCTION ORDER

v.)

MERZ PHARMACEUTICALS, LLC,)
et al.,)

Defendants.)

_____)
MERZ PHARMACEUTICALS, LLC,)
et al.,)

Counterclaimants,)

v.)

ALLERGAN, INC.)

Counter-Defendant.))
_____)

1 Merz Pharmaceuticals, LLC and Merz Aesthetics, Inc. (together, “Merz Defendants”),
2 their affiliated companies, officers, directors, agents, representatives, and employees who
3 receive notice of this Order, and Erin Sullivan, Sheri Tremmel, Amber Prumer, Jacqueline Luby,
4 Amy F. Finn, Jeffrey Riordan, and Timothy D. Byrns (together, “Individual Defendants”) are
5 ENJOINED from:

- 6 1. retaining, disclosing, or using Allergan’s trade secrets;
- 7 2. providing or selling Xeomin, or soliciting purchases of Xeomin, in the facial
8 aesthetics market for a period of ten months from the date of this Order;
- 9 3. providing or selling Xeomin, or soliciting purchases of Xeomin, in the therapeutics
10 market for a period of ten months from the date of this Order to Allergan
11 customers identified in Trial Exhibits 262, 263, 565, 1070, 1104, 1105, 1217,
12 1219, 1220, 1232, 1234, 1235, except to
 - 13 • customers who voluntarily and without solicitation request to purchase
14 Xeomin for therapeutic purposes from Merz Defendants, provided that
15 sworn declarations are submitted that such requests were made voluntarily
16 and without solicitation;
- 17 4. providing or selling dermal filler products, or soliciting purchases of dermal filler
18 products, in the facial aesthetics market for a period of ten months from the date of
19 this Order, except to
 - 20 • customers who voluntarily and without solicitation request to purchase
21 dermal filler products from Merz Defendants, provided that sworn
22 declarations are submitted that such requests were made voluntarily and
23 without solicitation, or
 - 24 • customers who purchased dermal filler products from Merz Defendants
25 (including BioForm Medical) between July 1, 2009 and June 30, 2010,
26 provided that sworn declarations are submitted identifying such customers;

27 Merz Defendants are further ORDERED to conduct a search, using industry standard
28 forensic tools, for Allergan trade secrets by examining physical locations and electronic data

1 sources used in their business operations (including, but not limited to, the files, computers, and
2 portable devices used by the Individual Defendants in the course and scope of their employment
3 with the Merz Defendants) using the standards promulgated by the Electronic Discovery
4 Reference Model (www.edrm.net), and remove all Allergan trade secrets from those locations
5 and sources. This “Examination and Remediation Process” shall extend to all employees of
6 Merz Defendants, except those employees working in the Finance or Manufacturing
7 departments. The Examination and Remediation Process shall be fully documented in a written
8 report provided to the Court and counsel for Allergan. Unless the Court later orders otherwise,
9 on noticed motion, Merz Defendants may seek to modify or terminate the provisions of portions
10 of this Injunction on the grounds that they have satisfied the Examination and Remediation
11 Process and that modification or termination of the Injunction is warranted by principles of
12 equity. Allergan may be permitted to examine, conduct discovery on, and contest the sufficiency
13 of the Examination and Remediation Process in an evidentiary hearing. Any modification or
14 termination of the terms of this Injunction may also apply to the Individual Defendants.

15 The Court further ORDERS Merz Defendants to implement or continue corporate
16 compliance programs to (1) ensure compliance with this Injunction; and (2) prevent, deter, and
17 detect existing and future violations of Cal. Civ. Code § 3426 *et seq.* Merz Defendants shall
18 report to the Court the status of these programs six, 12, and 18 months from the date of this
19 Order.

20 Allergan has the duty to serve this Order as is necessary for its enforcement.

21
22 IT IS SO ORDERED.

23 DATED: March 9, 2012



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25 Andrew J. Guilford
United States District Judge
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