

ARGUMENT

In its Motion, Sun Clinical seeks to bar the FTC from disclosing to LabCorp any

documents or information. Sun Clinical claims that the FTC is barred from disclosing to LabCorp

[REDACTED]

added).¹ Therefore, the terms of the Protective Order explicitly prevent LabCorp or its attorneys

advantage" over Sun Clinical. Motion at p. 7.

Corp., 730 F.2d 1465; *ODS Technologies*, 583 F. Supp. 2d 1141; *Presidio Components*, 546 F. Supp. 2d 951; *E-Smart Tech.*, 2008 WL 1930639; *Biovail Laboratories*, 463 F. Supp. 2d 1073.

In this case, Sun Clinical does not argue that LabCorp's outside litigation counsel for this matter

is involved in competitive decisionmaking on behalf of LabCorp. Moreover, litigation counsel for LabCorp has certified that it is not involved in LabCorp's competitive decisionmaking, and has no involvement whatsoever in any competitive decisions such as pricing decisions, bidding decisions, sales and marketing efforts, or product development. *See* Roush Decl. in Support of Defendants' Opposition to Sun Clinical Laboratories' Motion for an Additional Broader Protective Order ("Roush Decl."). Therefore restricting LabCorp's outside counsel's access to third-party documents and information would do nothing other than impose an unnecessary

burden on LabCorp and Sun Clinical Laboratories. *See* *Amgen v. H. Lundbeck A/S*, 2013 WL 1130639, *10 (D. Minn. 2013).

2010, hearing before the United States District Court for the Central District of California and for

from discovering relevant documents provided by third-parties to the FTC and would create a much more burdensome discovery process in which LabCorp would have little choice but to seek additional document discovery directly from third-parties such as Sun Clinical.

CONCLUSION

For the reasons set forth herein, Respondents respectfully request that the Court deny nonparty Sun Clinical's Motion for an Additional Broader Protective Order.

Dated: January 24, 2011

Respectfully Submitted,



J. Robert Robertson
Corey W. Roush
Benjamin F. Holt
HOGAN LOVELLS US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004-1109
(202) 637-5600 (telephone)
(202) 637-5910 (facsimile)
robby.robertson@hoganlovells.com
corey.roush@hoganlovells.com
benjamin.holt@hoganlovells.com

*Attorneys for Laboratory Corporation of
America and Laboratory Corporation of
America Holdings*

CERTIFICATE OF SERVICE

I hereby certify that I caused to be filed via hand delivery an original with signature and

and the following: [REDACTED]

original, of the foregoing document with:

Donald S. Clark
Secretary, Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-159
Washington, DC 20580
secretary@ftc.gov

1 Amy M. Gallegos (SRN 211270)

1 I, Corey W. Roush, declare and state as follows:

2 1. I am an attorney at law duly licensed to practice in the District of
3 Columbia. I am a partner at Hogan Lovells US LLP, and an attorney of record for
4 Defendants Laboratory Corporation of America and Laboratory Corporation of

1 correct copy of this e-mail is attached as Exhibit A.

2

Exhibit A

Please see attached.

Very Truly Yours,
Robert W. Chong, Esq.
Attorney at Law

1/10/2011