

issues its complaint, makes the following jurisdictional findings, and issues the following Decision and Order (“Order”):

1. Respondent Valeant is a corporation organized, existing, and doing business under and by virtue of the laws of the Province of British Columbia, Canada, with its principal executive offices located at 2150 St. Elzéar Blvd. West, Laval Quebec H7L 4A8, Canada, and its United States address for service of process and the Complaint and Decision and Order as follows: Corporate Secretary/General Counsel, 400 Somerset Corporate Blvd., Bridgewater, NJ 08807.
2. Paragon Holdings I, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Arizona, with its executive offices and principal place of business located at

supplements, amendments, and revisions thereto, any preparatory work, registration dossier, drafts and data necessary for the preparation thereof, and all correspondence between the holder and the FDA related thereto.

F. “Business” means the research, development, manufacture, commercialization, distribution, marketing, promotion, importation, exportation, advertisement, and/or sale of a Product.

G. “Business Records” means all books, records, files, databases, printouts, and all other documents of any kind, whether stored or maintained in hard copy paper format, by means of electronic, optical, or magnetic media or devices, photographic or video images, or any other format or media, including, without limitation: customer files, customer lists, customer purchasing histories, supplier and vendor files, vendor lists, correspondence, advertising and marketing materials, marketing analyses, sales materials, price lists, cost information, employee lists and contracts, salary and benefits information, personnel files, financial and accounting records and documents, financial statements, financial plans and forecasts, operating plans, studies, reports, regulatory materials, Applications, Agency filings and submissions, Agency correspondence, operating guides, technical information, manuals, policies and procedures, service and warranty records, maintenance logs

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3.

trademarks, and copyrights and registrations thereof and to sue and recover damages or obtain injunctive relief for infringement, dilution, misappropriation, misuse, violation, or breach of any of the foregoing;

provided, however, that “Intellectual Property” does not include the corporate names or corporate Trade Dress of Valeant or the related corporate logos thereof, or the corporate names or corporate Trade Dress of any other corporations or companies owned or controlled by the Respondent or the related corporate logos thereof (*e.g.*, Bausch + Lomb; Boston®), or general registered images or symbols by which Valeant can be identified or defined.

Y. “Inventories” means:

1. All inventories, stores, and supplies of any finished Products and work in progress; and
2. All inventories, stores, and supplies of raw materials and other materials relating to the research, development, manufacture, finishing, packaging, distribution, marketing, or sale of any Products.

Z. “Manufacturing Technology and Equipment” means all technology and equipment to make a Product, including, but not limited to:

1. All technology, trade secrets, know-how, formulas, and proprietary information (whether patented, patentable, or otherwise) related to the manufacture of a Product, including, but not limited to, all of the following: product specifications; processes; analytical methods; product designs; plans; trade secrets; ideas; concepts; manufacturing, engineering, and other manuals and drawings; standard operating procedures; flow diagrams; quality assurance and quality control systems; research records; clinical data; compositions; annual product reviews; regulatory communications; control history; current and historical information associated with FDA Application(s) conformance and cGMP compliance; labeling and all other information related to the manufacturing process; and supplier lists;
2. All ingredients, materials, or components used in the manufacture of the Product; and
3. All equipment (including tooling, molds, and dies) and machinery used to manufacture, finish, and package the Product.

AA. “Marketing Materials” means all materials used in the marketing or sale of a Product as of the Divestiture Date, including, without limitation, all advertising and display materials, promotional and marketing materials, training materials, educational materials, speaker lists, product data, mailing lists, sales materials (

- KK. “Paragon Business” means the worldwide Business conducted by Paragon with respect to the Paragon Products, all other GP Button Products, and all GP Finished Contact Lens Products, as of the date of the Paragon Acquisition, and as it has been maintained by Respondent since the Paragon Acquisition, including without limitation: all business activities relating thereto, and all tangible and intangible assets and property of any kind used for or relating thereto; all improvements and additions thereto, including, but not limited to, the Pelican Business; and the respective entities through which Paragon conducts its Business and/or pursuant to which it is organized as of the Divestiture Date.
- LL. “Paragon Divestiture Assets” means all of Respondent’s rights, title, and interests in and to all tangible and intangible assets and property of any kind used for or relating to the Paragon Business, wherever located, and any improvements or additions thereto, including, but not limited to:
1. All Intellectual Property;
 2. All Manufacturing Technology and Equipment;
 3. All Applications and all rights to such Applications;
 4. All Scientific and Regulatory Material;
 5. All Product Approvals;
 6. All Marketing Materials;
 7. All Websites and Domain Names;
 8. All Contracts;
 9. All Facility Assets, including, but not limited to, the facility located at 947 East Impala Avenue, Mesa, AZ 85204-6619;
 10. All Inventories; and
 11. All B

any ongoing legal proceedings, litigation, disputes, investigations, inquiries, subpoenas, reviews, audits or regulatory proceedings; *provided, however*, that Respondent shall comply with the requirements of Paragraph IV. of this Order with respect to any Confidential Business Information contained in such copies of Business Records.

- MM. “Paragon Employee(s)” means any and all employee(s) of the Paragon Business as of the Divestiture Date, and any and all former employee(s) who were employed by the Paragon Business within ninety (90) days of the execution of any Divestiture Agreement.
- NN. “Paragon Product(s)” means Paragon’s Ortho-K GP Button Products, Scleral GP Button Products, and General Vision Correction GP Button Products.
- OO. “Patent(s)” means all patents, patent applicationucts

1. recognized in the official National Formulary, or the United States Pharmacopoeia, or any supplement to them;
 2. intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals; or
 3. intended to affect the structure or any function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes.
- UU. “Product Approval(s)” means any approvals, registrations, permits, licenses, consents, authorizations, and other approvals, and pending applications and requests therefor, required by applicable Agencies related to the research, development, manufacture, distribution, finishing, packaging, marketing, sale, storage, or transport of a Product, and includes, without limitation, all approvals, registrations, licenses, or authorizations granted in connection with any Application related to that Product.
- VV. “Scientific and Regulatory Material” means all technological, scientific, chemical, biological, pharmacological, toxicological, regulatory, and clinical trial materials and information.
- WW. “Scleral GP Button Product(s)” means GP Button Products used to manufacture Scleral GP Finished Contact Lens Products, which are larger diameter GP Finished Contact Lens Products designed to cover the entire (er)-11.y, and.t.ure S r. -33.04 Tw [(f 0.00a2(ic)6e o Tc 0 T1d)-14(

- AAA. “Transition Agreement(s)” means any agreement(s) between the Respondent and the Acquirer, in each case for a period not to exceed (1) one year except as otherwise approved by the Commission, entered into at the option of the Acquirer that receive the prior approval of the Commission for any services (or training for the Acquirer to provide services for itself) or for the supply of any materials or products reasonably necessary to transfer the Paragon Divestiture Assets and the Paragon Business to the Acquirer in a manner consistent with the purposes of this Order. Services may include, but are not limited to, payroll, employee benefits, accounting, IT systems, distribution, warehousing, or other logistical and administrative support. Respondent shall provide any services to the Acquirer at no more than Respondent’s Direct Costs. Any agreements for the supply of materials or products shall be at commercially reasonable prices.
- BBB. “Websites and Domain Names” means the content of the Website(s) located at the Domain Names, the Domain Names, and all Copyrights in such Website(s), to the extent owned by the Respondent.

II.

IT IS FURTHER ORDERED that:

- A. No later than ten (10) days after the Order Date, Respondent shall divest the Paragon Divestiture Assets, absolutely and in good faith, to New Paragon pursuant to, and in accordance with, the New Paragon Acquisition Agreement (which agreement shall not limit or contradict, or be construed to limit or contradict, the terms of this Order, it being understood that this Order shall not be construed to reduce any rights or benefits of New Paragon or to reduce any obligations of Respondent under such agreement), and such agreement, if it is approved by the Commission as a Divestiture Agreement related to the Paragon Divestiture Assets, is incorporated by reference into this Order and made a part hereof;
- provided, however,* that if Respondent has divested the Paragon Divestiture Assets to New Paragon prior to the Order Date, and if, at the time the Commission determines to make this Order final and effective, the Commission notifies Respondent that New Paragon is not an acceptable purchaser of the Paragon Divestiture Assets, then Respondent shall immediately rescind the transaction with New Paragon, in whole or in part, as directed by the Commission, and shall divest the Paragon Divestiture Assets within one hundred eighty (180) days after the Order Date, absolutely and in good faith, at no minimum price, to an Acquirer that receives the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission;
- provided further,* that if Respondent has divested the Paragon Divestiture Assets to New Paragon prior to the Order Date, and if, at the time the Commission determines to make this Order final and effective, the Commission notifies Respondent that the manner in which the divestiture was accomplished is not acceptable, the Commission may direct Respondent, or appoint a Divestiture Trustee, to effect such modifications to the manner of divestiture of the Paragon Divestiture Assets to New Paragon (including, but not

limited to, entering into additional agreements or arrangements) as the Commission may determine are necessary to satisfy the requirements of this Order.

permitted to use and to disclose confidential information to or within Paragon (but not to third parties) prior to the Divestiture Date; and

- c. Provide all Paragon Employees with reasonable financial incentives to continue in their positions until the Divestiture Date, including, but not limited to, a continuation of all employee benefits, including regularly scheduled or merit raises and bonuses, and the regularly scheduled vesting of all pension benefits (as permitted by law and for those Paragon Employees covered by a pension plan).
- B. For a period of two (2) years following the Divestiture Date, Respondent shall not, directly or indirectly, solicit, hire, or enter into any arrangement for the services of any Paragon Employee who has accepted an offer of employment with, or who is employed by, the Acquirer; *provided, however*, that a violation of this provision will not occur if:
1. The Paragon Employee's employment has been terminated by the Acquirer;
 2. Respondent advertises for employees in newspapers, trade publications, or other media, or engages recruiters to conduct general employee search activities, in either case not targeted specifically at any one or more of the employees of the Acquirer; or
 3. Respondent hires a Paragon Employee who has applied for employment with Respondent, provided that such application was not solicited or induced in violation of this Order.

IV.

IT IS FURTHER ORDERED that:

- A. After the Divestiture Date, Respondent shall not use, solicit, or access, directly or indirectly, any Confidential Business Information, and shall not disclose, provide, discuss, exchange, circulate, convey, or otherwise furnish such Confidential Business Information, directly or indirectly, to any Person except:
1. As required or permitted by this Order;
 2. For the purpose of performing its obligations under the Divestiture Agreement;
 3. To prosecute or defend against any dispute or in a legal proceeding; or
 4. To comply with applicable law, regulations, and other legal or governmental requirements (including in connection with tax returns, reports required by securities laws, payroll, benefits, personnel reports, ongoing legal proceedings, litigation, disputes, investigations, inquiries, subpoenas, reviews, audits, or regulatory proceedings).

B. No

V.

IT IS FURTHER ORDERED that:

- A. At any time after the Respondent signs the Consent Agreement in this matter, the

- F. The Monitor shall serve, without bond or other security, at the expense of Respondent, on such reasonable and customary terms and conditions as the Commission may set or approve. The Monitor shall have authority to employ, at the expense of Respondent, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities.
- G. Respondent sh

VI.

IT IS FURTHER ORDERED that:

- A. If the Respondent has not fully complied with the obligations of Paragraph II. and related requirements of this Order, the Commission may appoint a Divestiture Trustee to divest the Paragon Divestiture Assets and/or perform Respondent's other obligations in a manner that satisfies the requirements of this Order. The Divestiture Trustee shall divest the Paragon Divestiture Assets to an Acquirer that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission. In the event that the Commission or the Attorney General brings an action pursuant to Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondent shall consent to the appointment of a Divestiture Trustee in such action to divest the required assets. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph VI.A. shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including one or more court-appointed Divestiture Trustees, pursuant to Section 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondent to comply with this Order.
- B. The Commission may select a Divestiture Trustee, subject to the consent of Respondent, which consent shall not be unreasonably withheld. The Commission may appoint a Divestiture Trustee to divest the Paragon Divestiture Assets and/or perform the Respondent's other obligations in a manner that satisfies the requirements of this Order. Any Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If the Respondent has not opposed, in writing, and stated in writing its reasons for opposing, the selection of any proposed Divestiture Trustee within ten (10) days after notice by the staff of the Commission to the Respondent of the identity of any proposed Divestiture Trustee, Respondent shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
- C. Not later than ten (10) days after the appointment of a Divestiture Trustee, Respondent shall execute a trust agreement for the divestiture required by Paragraph II. of this Order that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effectuate the divestitures required by, and satisfy the additional obligations imposed by, this Order. Any failure by the Respondent to comply with a trust agreement approved by the Commission shall be a violation of this Order.
- D. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Paragraph, Respondent shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:

1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to effectuate the divestiture required by, and satisfy the additional obligations imposed by, this Order.
2. The Divestiture Trustee shall have one (1) year after the date the Commission approves the trust agreement described herein to accomplish the divestiture required by Paragraph II. of this Order, which shall be subject to the prior approval of the Commission. If, however, at the end of the one (1) year period, the Divestiture Trustee has submitted a plan to satisfy the obligations of Paragraph II. of this Order, or believes that such obligation can be achieved within a reasonable time, the period may be extended by the Commission, or, in the case of a court-appointed Divestiture Trustee, by the court; *provided, however*, that the Commission may extend the period only two (2) times.
3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be divested by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondent shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondent shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestiture. Any delays caused by Respondent shall extend the time under this Paragraph VI. for a time period equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court.
4. The Divestiture Trustee shall use commercially reasonable efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to the Respondent's absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestiture shall be made in the manner that receives the prior approval of the Commission and to an Acquirer that receives the prior approval of the Commission as required by this Order; *provided, however*, if the Divestiture Trustee receives bona fide offers for the asset to be divested from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the Divestiture Trustee shall divest to the acquiring entity selected by Respondent from among those approved by the Commission; *provided further, however*, that Respondent shall select such entity within five (5) days after receiving notification of the Commission's approval.
5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all

monies derived from the divestitures and all expenses incurred. After approval by the Commission of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of Respondent, and the Divestiture Trustee's power shall be terminated. The compensation of any Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.

6. Respondent shall indemnify the

VII.

IX.

IT IS FURTHER ORDERED that for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondent made to either Respondent's principal United States offices, registered office of its United States subsidiary, or its headquarters address, Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of Respondent and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of Respondent related to compliance with this Order, which copying services shall be provided by Respondent at the request of the authorized representative(s) of the Commission and at the expense of the Respondent; and
- B. To interview officers, directors, or employees of Respondent, who may have counsel present, regarding such matters.

X.

IT IS FURTHER ORDERED that this Order shall terminate ten (10) years after the Order Date.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED:

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