

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Fontus Pharmaceuticals, Inc.		06/16/2008	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Hoffman-La Roche Inc.		
Street Address:	340 Kingsland Street		
City:	Nutley		
State/Country:	NEW JERSEY		
Postal Code:	07110		
Entity Type:	CORPORATION: NEW JERSEY		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	1082213	ROCALTROL	
Registration Number:	1122652	BUMEX	
CORRESPONDENCE DATA			
Fax Number:	(703)720-7399		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	703-720-7033		
Email:	colleen_mcduffie@aporter.com		
Correspondent Name:	Colleen H. McDuffie		
Address Line 1:	1600 Tysons Boulevard		
Address Line 2:	Suite 900		
Address Line 4:	McLean, VIRGINIA 22102		
ATTORNEY DOCKET NUMBER:	01323.001		
NAME OF SUBMITTER:	Colleen H. McDuffie		
Signature:	/Colleen H. McDuffie/		

CH \$65.00 1082213

Date:

06/18/2008

Total Attachments: 9

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INTELLECTUAL PROPERTY SECURITY AGREEMENT

INTELLECTUAL PROPERTY SECURITY AGREEMENT, dated as of June 16, 2008 (this "Agreement"), made by and between **FONTUS PHARMACEUTICALS, INC.** ("Fontus"), in favor of **HOFFMANN-LA ROCHE INC.**, as secured party ("Roche").

W I T N E S S E T H:

WHEREAS, pursuant to the Secured Promissory Note dated as of the date hereof, by and between Fontus and Roche (as amended, restated, supplemented or otherwise modified from time to time, the "Note"), (i) Roche has made a loan to Fontus in the aggregate principal amount of \$2,500,000 (the "Loan") and (ii) Fontus has granted a security interest to Roche in, among other things, all right, title and interest of Fontus in, to and under all of Fontus's Intellectual Property (as defined below), whether now existing or hereafter arising or acquired as security for the Obligations; and

WHEREAS, Fontus is the owner of the entire right, title and interest in, to and under the Intellectual Property listed on Schedule I hereto.

NOW, THEREFORE, in consideration of the premises and to induce Roche to make the Loan, Fontus hereby agrees with Roche as follows:

1. Defined Terms.

(a) Definitions. Unless otherwise defined herein or the context otherwise requires, terms used in this Agreement, including its preamble and recitals, have the meanings provided in the Note.

(b) Definitions of Certain Terms Used Herein. As used herein, the following terms shall have the following meanings:

"Copyrights" shall mean all of Fontus's now existing or hereafter acquired right, title, and interest in and to: (i) copyrights, rights and interests in copyrights, works protectable by copyright, all applications, registrations and recordings relating to the foregoing as may at any time be filed in the United States Copyright Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other country, and all research and development relating to the foregoing; and (ii) all renewals of any of the foregoing.

"Copyright Licenses" shall mean all agreements, whether written or oral, providing for the grant by or to Fontus of any right to use any Copyright.

"Intellectual Property" shall mean all: (i) Trademarks and Trademark Licenses and all common-law rights in and to all of the foregoing; (ii) Patents and Patent Licenses; (iii) Copyrights and Copyright Licenses; (iv) all customer lists and customer information; (v) books, records, writings, computer tapes or disks, flow diagrams, specification sheets,

computer software (but excluding in all cases any agreements for the licensing of commercially available off-the-shelf software), source codes, object codes, executable code, data, databases and other physical manifestations, embodiments or incorporations of any Trademark, Trademark License, Patent, Patent License, Copyright or Copyright License; and (vi) all other intellectual property throughout the world in and to all the foregoing.

"IP Collateral" shall have the meaning assigned to such term in Section 2 hereof.

"Licenses" shall mean, collectively, the Trademark Licenses, the Patent Licenses, and the Copyright Licenses.

"Patents" shall mean all of Fontus's now existing or hereafter acquired right, title and interest in and to: (i) all patents, patent applications, inventions, invention disclosures and improvements, and all applications, registrations and recordings relating to the foregoing as may at any time be filed in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other country, and all research and development relating to the foregoing; and (ii) the reissues, divisions, continuations, renewals, extensions and continuations-in-part of any of the foregoing.

"Patent Licenses" shall mean all agreements, whether written or oral, providing for the grant by or to Fontus of any right to manufacture, use or sell any invention covered by a Patent.

"Trademarks" shall mean all of Fontus's now existing or hereafter acquired right, title, and interest in and to: (i) all of Fontus's trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos, other business identifiers, prints and labels on which any of the foregoing have appeared or appear, all applications (but excluding in all cases all intent-to-use United States trademark applications for which an amendment to allege use or statement of use has not been filed under 15 U.S.C. § 1051(c) or 15 U.S.C. § 1051(d), respectively, or if filed, has not been deemed in conformance with 15 U.S.C. § 1051(a) or examined and accepted, respectively, by the United States Patent and Trademark Office, provided, that, upon such filing and acceptance, such intent-to-use applications shall be included in the definition of Trademarks), registrations and recordings relating to the foregoing as may at any time be filed in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other country, and all research and development relating to the foregoing; (ii) all renewals thereof; (iii) the entire goodwill of Fontus's business connected with and symbolized by the foregoing or the use thereof; and (iv) all designs and general intangibles of a like nature.

"Trademark Licenses" shall mean all agreements, whether written or oral, providing for the grant by or to Fontus of any right to use any Trademark.

(c) Other Definitional Provisions.

i. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and paragraph references are to this Agreement unless otherwise specified.

ii. The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Grant of Security Interest. To secure the payment and performance of the Obligations, Fontus hereby confirms and acknowledges that it has granted (and, to the extent not previously granted under the Note or any other Loan Document, does hereby grant) to Roche a lien and security interest in Fontus's entire right, title and interest in its Intellectual Property (except to the extent any Intellectual Property License prohibits such grant or requires the consent of any third party) and all proprietary rights relating to or arising from such Intellectual Property, in each case whether now owned or hereafter acquired by Fontus, and including, without limitation, Fontus's right, title and interest in and to each Intellectual Property and proprietary right identified on Schedule I attached hereto and made a part hereof, and the right to sue for past, present and future infringements and dilutions, and all rights corresponding thereto throughout the world, and the entire goodwill of Fontus's business connected with and symbolized by such Intellectual Property and all income, fees, royalties, proceeds and other payments at any time due or payable with respect to any of the foregoing (referred to collectively as the "IP Collateral").

3. Protection of Intellectual Property by Fontus. Fontus shall, at its sole cost, expense and risk, undertake the following with respect to the Intellectual Property listed on Schedule I:

(a) Pay all renewal fees and other fees and costs associated with maintaining the Intellectual Property and with the processing of the Intellectual Property and take all other commercially reasonable steps to maintain each registration of the Intellectual Property.

(b) Take all actions commercially reasonable to prevent any of the Intellectual Property from becoming forfeited, abandoned, dedicated to the public, invalidated or impaired in any way.

(c) Pursue the prompt, diligent processing of each application for registration, which is the subject of the security interest created herein, and not abandon or delay any such efforts.

(d) Take any and all action necessary to protect the Intellectual Property from infringement, misappropriation or dilution, including, without limitation, the prosecution and defense of infringement actions.

4. Representations and Warranties. Fontus represents and warrants that:

(a) Schedule I is a true, correct and complete list of all registered or applied for Intellectual Property owned by Fontus as of the date hereof.

(b) Except as set forth in Schedule I, none of the Intellectual Property identified on Schedule I is the subject of any licensing or franchise agreement pursuant to which Fontus is the licensor or franchisor.¹

(c) To Fontus's knowledge the Intellectual Property identified on Schedule I hereto, is valid and enforceable: (i) no claim has been made that the use of any of the Intellectual Property does or may violate the rights of any third person; and (ii) no material claim has been asserted and is pending by any Person challenging or questioning the use by Fontus of any of the Intellectual Property or the validity or effectiveness of any of the Intellectual Property.

(d) Except as could not be reasonably expected to result in a Material Adverse Change, Fontus is the sole and exclusive owner of the entire right, title and interest in, under and to the Intellectual Property identified on Schedule I hereto, free and clear of any liens, charges and encumbrances, other than Permitted Liens and liens in favor of Roche.

(e) To the knowledge of Fontus, no holding, decision or judgment has been rendered by any governmental authority which would limit, cancel or question the validity of, or Fontus's rights in, any Intellectual Property in any respect that could reasonably be expected to result in a Material Adverse Change.

(f) Fontus has the legal right and authority to enter into this Agreement and perform its terms.

(g) Fontus shall give Roche prompt written notice (with reasonable detail) in the event any of the following occur:

i. Fontus obtains rights to, or files applications for registration of, any new Intellectual Property, or otherwise acquires ownership of any newly registered Intellectual Property.

ii. Fontus becomes entitled to the benefit of any registered Intellectual Property whether as licensee or licensor.

iii. Fontus's enters into any new Licenses (excluding "off-the-shelf" software or similar immaterial licenses).

iv. Fontus knows or has reason to know, that any application or registration relating to any material Intellectual Property may become forfeited, abandoned or dedicated to the public, or of any adverse determination or development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office or any court or tribunal) regarding Fontus's ownership of, or the validity of, any material Intellectual Property or Fontus's right to register the same or to own and maintain the same.

¹ To be supplemented at or after close.

5. No Violation of Note. The representations, warranties or covenants contained herein are supplemental to those representations, warranties and covenants contained in the Note, and shall not be deemed to modify any such representation, warranty or covenant contained in the Note.

6. Agreement Applies to Future Intellectual Property.

(a) The provisions of this Agreement shall automatically apply to any such additional property or rights described in Section 4(g) above, all of which shall be deemed to be and treated as "Intellectual Property" within the meaning of this Agreement.

(b) Upon the reasonable request of Roche, Fontus shall execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as Roche may request to evidence Roche's security interest in any Intellectual Property and the goodwill of Fontus relating thereto or represented thereby (including, without limitation, filings with the United States Patent and Trademark Office or any similar office), and Fontus hereby appoints Roche as its attorney-in-fact to execute and file all such writings for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; provided, however, Roche's taking of such action shall not be a condition to the creation or perfection of the security interest created hereby.

7. Fontus's Rights To Enforce Intellectual Property. Prior to the occurrence and during the continuance of an Event of Default, Fontus shall have the exclusive right to sue for past, present and future infringement of the Intellectual Property including the right to seek injunctions and/or money damages, in an effort by Fontus to protect the Intellectual Property against encroachment by third parties, provided, however:

(a) Any money damages awarded or received by Fontus on account of such suit (or the threat of such suit) shall constitute IP Collateral.

(b) Any damages recovered in any action pursuant to this Section, net of costs and attorneys' fees reasonably incurred, shall be applied as provided in the Note.

(c) Following the occurrence and during the continuance of any Event of Default, Roche, by notice to Fontus, may terminate or limit Fontus's rights under this Section 7.

8. Roche's Actions To Protect Intellectual Property. Upon the occurrence and continuance of any Event of Default, Roche, acting in its own name or in the name of Fontus, may (but shall not be required to) act in Fontus's place and stead and/or in Roche's own right with respect to the rights and obligations of Fontus under Section 3, Section 6 and Section 7 hereof.

9. Rights Upon Default. Upon the occurrence and during the continuance of any Event of Default, Roche may exercise all rights and remedies as provided for in the Note.

10. Roche as Attorney In Fact.

(a) Fontus hereby irrevocably constitutes and designates Roche as its attorney in fact, effective following the occurrence and during the continuance of an Event of Default:

i. To supplement and amend from time to time Schedule I of this Agreement to include any new or additional Intellectual Property; and

ii. To exercise any of the rights and powers referenced herein.

(b) The foregoing grant of a power of attorney, being coupled with an interest, shall be irrevocable until this Agreement is terminated by a duly authorized officer of Roche.

(c) Roche shall not be obligated to do any of the acts or to exercise any of the powers authorized by Section 8 or Section 10, but if Roche elects to do any such act or to exercise any of such powers, it shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be responsible to Fontus or any other Person for any act or omission to act except for any act or omission to act as to which there is a final determination made in a judicial proceeding (in which proceeding Roche has had an opportunity to be heard) which determination includes a specific finding that the subject act or omission to act had been grossly negligent or in actual bad faith.

11. Roche's Rights. Upon an Event of Default and during the continuance thereof, any use by Roche of the Intellectual Property, as authorized hereunder in connection with the exercise of Roche's rights and remedies under this Agreement and under the Note shall be coextensive with Fontus's rights thereunder and with respect thereto and without any liability for royalties or other related charges.

12. No Limitation; Note. This Agreement has been executed and delivered by Fontus for the purpose of recording the security interest granted to Roche with respect to the IP Collateral with the United States Patent and Trademark Office and the United States Copyright Office. The security interest granted hereby has been granted as a supplement to, and not in limitation of, the security interest granted to Roche under the Note and the other Loan Documents. The Note (and all rights and remedies of Fontus and Roche thereunder) shall remain in full force and effect in accordance with its terms. In the event of a conflict between this Agreement and the Note, the terms of this Agreement shall control with respect to the IP Collateral and the Note with respect to all other Collateral.

13. Termination; Release of Trademark Collateral. This Agreement and all obligations of Fontus and Roche hereunder shall terminate on the date upon which the Obligations are performed in full and paid in full in cash and the Note and other Loan Documents are terminated in accordance with the terms of the Note. Upon termination of this Agreement, Roche shall, at the expense of Fontus, take such actions required by the Note to release its security interest in the IP Collateral.

14. Binding Effect; Benefits. This Agreement shall be binding upon Fontus and its successors and assigns, and shall inure to the benefit of Roche and its successors and assigns.

15. GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF DELAWARE.

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IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be executed by its duly authorized representatives as of the date first above written.

FONTUS PHARMACEUTICALS, INC.

By: Seth Lederman
Name: Seth Lederman
Title: Director

Apprv'd As To Form
LAW DEPT.

By: KJS

HOFFMANN-LA ROCHE INC.

By: Ivor Macleod
Name: Ivor Macleod
Title: Vice President and Chief Financial Officer

[INTELLECTUAL PROPERTY SECURITY AGREEMENT]

Schedule I

U.S. Trademark Registrations

Mark	Registration Number	Registration Date
Rocaltrol®	1082213	January 17, 1978
Bumex®	1122652	July 24, 1979

U.S. Copyright Registrations and Application

None

U.S. Patent Registrations and Application

Description	Registration Number	Registration Date
for the process for precursors to calcitriol and related compounds	Patent 5,182,393	Issued January 26, 1993
for the process for precursors to calcitriol and related compounds	Patent 5,225,569	Issued July 6, 1993
for the process for precursors to calcitriol and related compounds	Patent 5,352,781	Issued October 4, 1994

U.S. Domain Name Registration

fontuspharma.com
bumex.com – domain name only
bumex.info - domain name only
bumex.us - domain name only
rocaltrol.us - domain name only