

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM311411

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Varioraw Percutive S.a.r.l.		11/01/2013	CORPORATION: SWITZERLAND
RECEIVING PARTY DATA			
Name:	Aptalis Pharma US, Inc.		
Street Address:	100 Somerset Corporate Boulevard		
City:	Bridgewater		
State/Country:	NEW JERSEY		
Postal Code:	08807		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Registration Number:	1720066	FLUTTER	
Registration Number:	2766490		
Registration Number:	2048432		
CORRESPONDENCE DATA			
Fax Number:	2123088582		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	2125932112		
Email:	ptoemails@earthlink.net		
Correspondent Name:	Christopher Serbagi, Esq.		
Address Line 1:	488 Madison Ave., Suite 1120		
Address Line 4:	New York, NEW YORK 10022		
NAME OF SUBMITTER:	Christopher Serbagi		
SIGNATURE:	/christopher serbagi/		
DATE SIGNED:	07/22/2014		
Total Attachments: 11			
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EXECUTION COPY

Date: 01 November 2013

VARIORAW PERCUTIVE S.À.R.L.

AND

APTALIS PHARMA US, INC.

**FLUTTER ASSET TRANSFER AGREEMENT
US**

**TRADEMARK
REEL: 005327 FRAME: 0116**

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THIS ASSET TRANSFER AGREEMENT (“this Agreement”) is made with effect from 01 November 2013

BETWEEN:

- (1) **VarioRaw Percutive S.à.r.l.**, a Swiss company, whose principal place of business is at Place Bel-Air 4, c/o Fiduciaire Heller SA, 1260 Nyon, Switzerland (“**VarioRaw**”); and
- (2) **Aptalis Pharma US, Inc.**, a Delaware corporation, whose principal place of business is at 100 Somerset Corporate Boulevard, Bridgewater, New Jersey 08807, United States of America (“**Aptalis**”).

BACKGROUND:

- (A) VarioRaw and Aptalis are both affiliates of Aptalis Pharma, Inc.
- (B) VarioRaw is the owner of the Product, as defined below. Aptalis markets and distributes the Product in the United States.
- (C) Following inspections in August 2013, the FDA issued a warning letter dated October 25, 2013 and addressed to Aptalis, detailing violations in the contract manufacture of the Product.
- (D) Since it was not feasible for VarioRaw to support the continued manufacture of the Flutter device and its responsibilities with respect to it, VarioRaw agreed to transfer its rights to the Flutter device in the United States to Aptalis, and Aptalis agreed to assume all consequent obligations, the burden of supporting and renewing applicable product registrations and the burden of ensuring correction of the identified violations.
- (E) Accordingly VarioRaw and Aptalis enter into this Agreement to reflect their understanding and to set out in full the terms and conditions which apply to it.

TERMS:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement the following expressions shall have the following meanings:

“**Assets**” means the entire interest and estate of VarioRaw relating to or used in the Business, including the Registrations, the Intellectual Property, the Goodwill and the Records, but shall exclude the Excluded Assets.

“**Assumed Liabilities**” means any and all liabilities to customers in the Territory in respect of the quality of Products supplied by VarioRaw to such customers on or after 21 August 2013, or in respect of Products properly forecast and ordered for delivery after such date but not delivered.

“Business” means the business of the distribution and sale of the Product in the Territory, including the manufacture of the Product for such distribution and sale and those activities which are ancillary to such business

“Consideration” means the total purchase consideration for the Business and the Assets specified in Clause 4.

“Encumbrance” means any mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, any other encumbrance or security interest of any kind and any other type of preferential arrangement (including title, transfer and retention arrangements) having similar effect.

“Excluded Assets” means the assets and liabilities referred to in section 3 as being excluded from the sale and purchase.

“Excluded Liabilities” means all of the liabilities of the Business as of the Transfer Date, whether actual or contingent, other than the Assumed Liabilities.

“Excluded Records” means all books and records of VarioRaw to the extent that they relate to the ROW Business, and all statutory books and statutory records of VarioRaw.

“Goodwill” means the goodwill of the Business and the exclusive right for Aptalis or its assignee to use the name “Flutter” in the Territory, and to represent itself as carrying on the Business in succession to VarioRaw, including the benefit of all pending contracts, orders and engagements and the rights to all lists of customers of the Business.

“Intellectual Property” means in relation to the Business, any and all patents, registered trademarks including those listed in Schedule 1, registered designs, applications for any of the foregoing, trade and business names, unregistered trademarks, logos, know-how, trade secrets, copyrights, rights in designs, inventions, rights under licences and consents in relation to any such rights, and rights of the same or similar effect or nature, together with all goodwill attaching or relating thereto (whether or not capable of protection by registration).

“Manuplast Agreement” means any and all agreements and/or arrangements pertaining to the Product between VarioRaw on the one hand and Manuplast S.A., its affiliates and their predecessors on the other.

“Product” means the mucus clearance device which as of the Transfer Date is sold in the United States and elsewhere under the trademark “Flutter®”.

“Records” means all books, documents, files, tapes, correspondence and other records relating to the Business and the Assets.

“Registrations” means all interest in the Territory which VarioRaw has in regulatory approvals, import licenses, and any other approval of governmental or reimbursement authorities which are necessary or useful to import, market or sell the Product in the Territory, and including any residual or reversionary interest which VarioRaw may have in the FDA Class II Device Registration for the Product numbered 1055059, owned by Aptalis.

“ROW Business” means the business of the distribution and sale of the Product outside the United States of America, its territories and possessions, including the manufacture of the Product for such distribution and sale and those activities which are ancillary to such business.

“Territory” means the United States of America, its territories and possessions.

“Transfer Date” means 1 November 2013.

“US\$” means United States dollars.

1.2 In this Agreement:

- (a) The singular shall include the plural and vice versa.
- (b) Unless the context or subject otherwise requires, references to words in one gender include references to the other genders.
- (c) A reference to a person shall include an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental entity or authority or other entity of whatever nature.
- (d) Unless the context otherwise requires, reference to a recital, article, paragraph, provision, clause or schedule is to a recital, article, paragraph, provision, clause or schedule of or to this Agreement.
- (e) Reference to a statute or statutory provision includes a reference to it as from time to time amended, extended or re-enacted.
- (f) The headings in this Agreement are inserted for convenience only and do not affect its construction.
- (g) The expressions “include”, “includes”, “including”, “in particular” and similar expressions shall be construed without limitation.

2. **SALE AND PURCHASE**

2.1 VarioRaw agrees as legal and beneficial owner to sell and Aptalis agrees to purchase with effect from the Transfer Date the Assets and the Business as a going concern, comprising the following:

- (a) the Registrations;
- (b) the Intellectual Property;
- (c) the Goodwill; and
- (d) the Records,

all free from Encumbrances, for the Consideration.

2.2 For the avoidance of doubt, no liability in respect of the Business or the Assets shall pass to, be assumed or be construed as accepted by Aptalis except as expressly set out in this Agreement.

3. **EXCLUDED ASSETS AND LIABILITIES**

3.1 The following are excluded from the sale and purchase of the Business and the Assets and retained by VarioRaw:

- (a) the ROW Business;
- (b) the Manuplast Agreement, subject to section 7;
- (c) the Excluded Records;
- (d) any amounts owing to VarioRaw from customers of the Business;
- (e) any amounts recoverable by VarioRaw in respect of tax paid or payable by VarioRaw in connection with matters or events occurring on or before the Transfer Date;
- (f) all cash in hand or at the bank;
- (g) the Excluded Liabilities;
- (h) the benefit of any insurance claims arising prior to the Transfer Date in relation to the Business; and
- (i) all assets of the Business not specified in section 2.1.

3.2 Further, the parties acknowledge that VarioRaw hold no inventory pertaining to the Business as of the Transfer Date.

4. **CONSIDERATION**

4.1 The total cash consideration payable by Aptalis for the purchase of the Business and Assets shall be the sum of US\$1 (one dollar). VarioRaw hereby acknowledges due receipt of the whole of the cash consideration.

4.2 Additionally the consideration shall include the assumption by Aptalis of:

- (a) the Assumed Liabilities;
- (b) the burden of obtaining and maintaining the Registrations; and
- (c) to the extent that it is for the account of VarioRaw and not the subject of insurance or indemnification from any third party, the responsibility for any complaints made by customers after the Transfer Date relating to products sold by Aptalis prior to the Transfer Date.

5. **TRANSFER**

5.1 VarioRaw and Aptalis acknowledge that physical possession of the Records, the Inventory and all other Assets capable of transfer by delivery took place on the Transfer Date, and Aptalis duly accepted such transfer.

5.2 Risk and property in and title to the Assets passed from VarioRaw to Aptalis as of the Transfer Date.

6. **EMPLOYEES**

6.1 VarioRaw and Aptalis acknowledge that there are no employees of the Business.

6.2 VarioRaw shall indemnify and keep Aptalis indemnified against all costs, claims, damages, liabilities and expenses arising from a claim by any person alleging that he/she is or was at the Transfer Date an employee of the Business or that he/she is otherwise entitled to employment by Aptalis or compensation in lieu of employment arising from the sale and purchase of the Business.

7. **TRANSFER OF MANUFACTURING**

7.1 For clarity, VarioRaw retains all rights and responsibilities arising from or in relation to the Manuplast Agreement.

7.2 VarioRaw and Aptalis shall reasonably co-operate, at Aptalis' cost, to secure the future manufacture of the Product by a manufacturer of Aptalis' choice. In particular, VarioRaw shall use commercially reasonable efforts to secure the transfer to Aptalis (or its designee) of all moulds, specifications, processes and other information reasonably necessary to manufacture the Product.

8. NO WARRANTIES

The Assets and the Business are sold by VarioRaw to Aptalis without any warranty or representation of any kind, and all such warranties and representations are expressly disclaimed.

9. ASSIGNMENT

9.1 Aptalis may assign this Agreement to any affiliate or to any purchaser of all or substantially all of the assets of the Business.

9.2 VarioRaw shall not assign this Agreement without the prior written consent of Aptalis.

10. GENERAL PROVISIONS

10.1 This Agreement and any document referred to in this Agreement constitutes the entire agreement, and supersedes any previous agreement, between the parties relating to the subject matter of this Agreement.

10.2 This Agreement shall be binding upon and run for the benefit of the parties, their successors and permitted assigns.

10.3 A variation of this Agreement is valid only if it is in writing and signed by or on behalf of each party.

10.4 If any provision in this Agreement is deemed to be, or becomes invalid, illegal, void or unenforceable under applicable laws, such provision will be deemed amended to conform to applicable laws so as to be valid and enforceable, or if it cannot be so amended without materially altering the intention of the parties, it will be deleted, but the validity, legality and enforceability of the remaining provisions of this Agreement shall not be impaired or affected in any way.

10.5 Nothing in this Agreement shall be construed as creating a partnership between the parties or as constituting either party as the agent of the other party (save as expressly set out in this Agreement) for any purpose whatsoever and neither party shall have the authority or power to bind the other party or to contract in the name of or create a liability against the other party in any way or for any purpose.

10.6 Each party shall do and execute, or arrange for the doing and executing of, each necessary act, document and thing reasonably within its power to implement this Agreement.

10.7 Any notice under or in connection with this Agreement shall be in writing and may be sent by first class post to the registered office of the recipient.

11. GOVERNING LAW AND JURISDICTION

11.1 This Agreement is governed by the laws applicable in the state of Delaware, without reference to its conflicts of laws principles.

11.2 The courts of Delaware have exclusive jurisdiction to settle any dispute arising from or connected with this Agreement. The parties agree that the courts of Delaware are the most appropriate and convenient courts to settle any Dispute and, accordingly, that they will not argue to the contrary.

12. EXECUTION AND COUNTERPARTS

This Agreement may be executed by the parties on separate counterparts, but shall not be effective until each of the parties has executed and exchanged at least one counterpart. Each counterpart shall constitute an original of the Agreement, but all the counterparts shall together constitute one and the same instrument. Exchange (a) by fax, or (b) by e-mail attaching an executed copy of this Agreement in Adobe Portable Document Format (“PDF”) or of the entire unexecuted document together with an executed signature page in PDF format, will be considered valid; and electronic signatures shall be considered equivalent to signatures under hand.

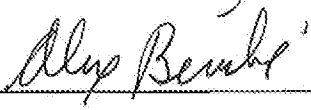
Schedule 1 Trademarks

Trademark	Country	Trademark No.	Reg. Date
FLUTTER	United States	1,720,066	1992-09-29
FLUTTER	WIPO*	567150	1991-02-04
FLUTTER VRP1 3D	United States	2,766,490	2003-09-23
FLUTTER VRP1 3D	WIPO*	642942	1995-09-21
FLUTTER VRP1 3D Design	United States	2,048,432	1997-03-25
VRP	WIPO*	670030	1997-03-16

* To the extent applicable in the Territory

EXECUTED by the parties' duly authorized representatives

VARIORAW PERCUTIVE S.A.R.L.



Name: Alex Berube

Title: Director

APTALIS PHARMA US, INC.



Name: Ralph Kleinman

Title: Vice President