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United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE COUNTY OF SANTA CLARA, on behalf  
of itself and all others similarly situated,  
  
Plaintiffs,

No. C 05-03740 WHA

v.

ASTRA USA, INC., ASTRA ZENECA  
PHARMACEUTICALS LP, EVENTS  
PHARMACEUTICALS, INC., BAYER  
CORPORATION, BRISTOL-MYERS SQUIBB  
COMPANY, PFIZER, INC.,  
SCHERING-PLOUGH CORPORATION TAP  
PHARMACEUTICAL PRODUCTS, INC.,  
ZENECCA, INC., ZLB BEHRING LLC,  
SMITHKLINE BEECHAM CORPORATION,  
SMITHKLINE BEECHAM CORPORATION  
d/b/a GLAXO SMITHKLINE, WYETH, INC.,  
WYETH PHARMACEUTICALS, INC.,

**ORDER CONCERNING  
DEFENDANT AVENTIS'S  
OBJECTION TO PLAINTIFFS'  
PRODUCT DESIGNATION  
IN DISCOVERY**

Defendants.

The third amended case management order (Dkt. No. 667) sets forth the requirements for Stage Two of discovery in this case. Among other things, it requires defendants to answer two court-ordered interrogatories concerning a "designated drug," a single drug selected by plaintiffs for each defendant, to have been selected by July 19, 2010. Plaintiffs selected Ambien as the designated drug for defendant Aventis. On August 6, 2010, Aventis objected to this designation on grounds that Ambien is not a product at issue in this case. Plaintiffs' filed a response on August 12, and defendant Aventis replied on August 13.

1 An order by Judge Chen from November 6, 2009 (Dkt. No. 511) addresses this issue. At  
2 that time the parties disputed whether plaintiffs could seek discovery concerning pricing  
3 information for products with certain labeler codes for which title is held by an entity related to  
4 the relevant defendant, such as a parent or subsidiary entity, but not the defendant itself. Judge  
5 Chen's order holds that plaintiffs are entitled to discovery concerning a product with a certain  
6 labeler code, "if there is a federal agency identifying a named defendant as the title holder for  
7 [the] labeler code." Judge Chen ruled that the products at issue for discovery are those that a  
8 federal government agency website lists as manufactured by the defendants.

9 Ambien's labeler code is 00024. The Health Resources and Services Administration  
10 website lists Sanofi-Aventis US LCC as the manufacturer for the 00024 labeler code (Exh. 1 to  
11 Baig Decl.). It is true that Sanofi-Aventis US LLC has not been sued. On the other hand,  
12 plaintiffs have provided evidence that "Aventis" merged into Sanofi-Aventis. This has not been  
13 directly disputed by defendant Aventis Pharmaceuticals Inc., but defendant Aventis claims that  
14 Sanofi-Aventis is a separate entity. The submissions by the parties on this issue are confusing as  
15 to whether the "Aventis" that merged into Sanofi-Aventis was Aventis Pharmaceuticals Inc. To  
16 get to the bottom of this, there will be a hearing on **AUGUST 31, 2010, AT 10:00 A.M.** Aventis  
17 Pharmaceuticals Inc. must bring to the hearing a witness prepared to testify under oath based on  
18 personal knowledge concerning the exact history of the merger and the relationships between the  
19 various related companies.

20 If defendant loses its objection, it must be prepared, by having personnel ready, to meet  
21 the deadline to complete Stage Two discovery by September 30, 2010.

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23 **IT IS SO ORDERED.**

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25 Dated: August 13, 2010.

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE