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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

17 GENENTECH, INC. and BIOGEN IDEC
 18 INC.,
 19 Plaintiffs,
 20 vs.
 21 SANOFI-AVENTIS DEUTSCHLAND
 GMBH, SANOFI-AVENTIS U.S. LLC, and
 22 SANOFI-AVENTIS U.S. INC.,
 23 Defendants.

CASE NO. C 08-04909 SI
 STIPULATION AND [PROPOSED] ORDER
 TO ADJOURN HEARING AND EXTEND
 SCHEDULE FOR BRIEFING OF
 GENENTECH'S MOTION TO DISQUALIFY
 McDONNELL BOEHNEN HULBERT AND
 BERGHOFF LLP

STIPULATION

1
2 Plaintiff Genentech, Inc. and Defendant Sanofi-Aventis Deutschland GmbH, pursuant to
3 Civil Local Rules 6-1 and 6-2, respectfully request that the Court enter the following stipulation
4 and proposed order regarding Genentech’s Motion to Disqualify McDonnell Boehnen Hulbert and
5 Berghoff LLP. The parties now AGREE and STIPULATE as follows:

6 a. Subject to its objections, Genentech shall produce non-privileged documents
7 responsive to Sanofi-Aventis Deutschland’s Third Set of Requests for Production on or before
8 October 19, 2009;

9 b. The time for Sanofi-Aventis Deutschland to respond to Genentech’s Motion to
10 Disqualify McDonnell Boehnen Hulbert and Berghoff LLP will be extended by twenty-eight days,
11 from October 16, 2009 to November 13, 2009;

12 c. The time for Genentech to reply in support of its Motion to Disqualify McDonnell
13 Boehnen Hulbert and Berghoff LLP will be extended by twenty-eight days, from October 23,
14 2009 to November 20, 2009;

15 d. The hearing on Genentech’s Motion to Disqualify McDonnell Boehnen Hulbert
16 and Berghoff LLP will be adjourned for twenty-eight days, until December 4, 2009 at 9:00 a.m.,
17 or as soon thereafter as may be heard; and

18 e. Sanofi-Aventis Deutschland will not contend that Genentech’s motion should be
19 denied due to the extension of time granted in this stipulation.

20 1. Reason for Extension of Time

21 Genentech has sought to disqualify Sanofi-Aventis Deutschland’s counsel, McDonnell
22 Boehnen Hulbert and Berghoff LLP, on the basis of Dr. John McDonnell’s involvement in an
23 interference proceeding before the U.S. Patent and Trademark Office in 1989 and 1990. Sanofi-
24 Aventis Deutschland does not have access to the documents relating to the interference it believes
25 are required to respond to the motion, which would be held by Genentech or Dr. McDonnell’s
26 firm at the time, Allegretti & Witcoff (now Banner & Witcoff). Sanofi-Aventis Deutschland
27 therefore served its Third Set of Requests for Production upon Genentech on September 18, 2009.

1 Genentech filed its Motion to Disqualify McDonnell Boehnen Hulbert and Berghoff LLP
 2 on October 1, 2009, set for hearing on November 6, 2009. Pursuant to Civil Local Rule 7-3(a),
 3 Sanofi-Aventis Deutschland's Opposition to Genentech's Motion to Disqualify McDonnell
 4 Boehnen Hulbert and Berghoff LLP would be due on October 15, 2009, *before* Genentech's
 5 response to Sanofi-Aventis Deutschland's Third Set of Requests for Production would be due
 6 under Rule 34(b)(2)(A) of the Federal Rules of Civil Procedure. Sanofi-Aventis Deutschland
 7 believes that the parties' arguments and Court's decision would be best informed if based on
 8 documents responsive to Sanofi-Aventis Deutschland's Third Set of Requests for Production. An
 9 extension of time of twenty-eight days for Sanofi-Aventis Deutschland to respond to Genentech's
 10 Motion to Disqualify McDonnell Boehnen Hulbert and Berghoff LLP should also allow the parties
 11 to resolve any disputes over the production before Sanofi-Aventis Deutschland's opposition would
 12 be due. While Genentech disagrees that these documents are necessary to oppose Genentech's
 13 motion, it has agreed to the extension.

14 2. Prior Time Modifications

15 The time for Defendants to answer or otherwise respond to the Complaint was previously
 16 extended. The briefing and hearing schedule for Defendants' Motions to Dismiss for Lack of
 17 Jurisdiction was temporarily vacated.

18 3. Effect of Modification

19 The requested extension will have no effect on the rest of the schedule in this action.

20 So stipulated.

21 DATED: October 8, 2009

QUINN EMANUEL URQUHART OLIVER &
 HEDGES, LLP

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By /s/Victoria F. Maroulis

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Victoria F. Maroulis

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Attorneys for Plaintiff Genentech, Inc.

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1 DATED: October 8, 2009

MCDONNELL BOEHNEN
HULBERT & BERGHOFF LLP

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By /s/Joshua R. Rich
Joshua R. Rich
Attorneys for Defendant Sanofi-Aventis
Deutschland GmbH

I, Raffi V. Zerounian, am the ECF User whose identification and password are being used to file this document. Pursuant to General Order 45.X.B, I hereby attest that counsel for Genentech has concurred in this filing.

DATED: October 8, 2009

HARVEY SISKIND LLP

By /s/
Raffi V. Zerounian
Attorneys for Defendant Sanofi-Aventis
Deutschland GmbH

[PROPOSED] ORDER

Pursuant to the stipulation of the parties and with good cause appearing, the Court
ORDERS that:

a. Subject to its objections, Genentech shall produce non-privileged documents responsive to Sanofi-Aventis Deutschland's Third Set of Requests for Production on or before October 19, 2009;

b. The time for Sanofi-Aventis Deutschland to respond to Genentech's Motion to Disqualify McDonnell Boehnen Hulbert and Berghoff LLP will be extended by twenty-eight days, from October 16, 2009 to November 13, 2009;

c. The time for Genentech to reply in support of its Motion to Disqualify McDonnell Boehnen Hulbert and Berghoff LLP will be extended by twenty-eight days, from October 23, 2009 to November 20, 2009; and

d. Hearing on Genentech's Motion to Disqualify McDonnell Boehnen Hulbert and Berghoff LLP will be adjourned for twenty-eight days, until December 18, 2009 at 9:00 a.m.; and

e. Sanofi-Aventis Deutschland will not contend that Genentech's motion should be denied due to the extension of time granted in this stipulation.

IT IS SO ORDERED.

October __, 2009



The Honorable Susan Illston
UNITED STATES DISTRICT JUDGE