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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GENENTECH, INC., et al., )  
 )  
Plaintiff(s), )  
 )  
v. )  
 )  
SANOFI-AVENTIS DEUTSCHLAND )  
GMBH, et al., )  
 )  
Defendant(s). )

No. C08-4909 SI (BZ)

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SANOFI-AVENTIS DEUTSCHLAND )  
GMBH, et al., )  
 )  
Plaintiff(s), )  
 )  
v. )  
 )  
GENENTECH and BIOGEN IDEC )  
INC., )  
 )  
Defendants. )

No. C09-4919 SI (BZ)

**NINTH DISCOVERY ORDER**

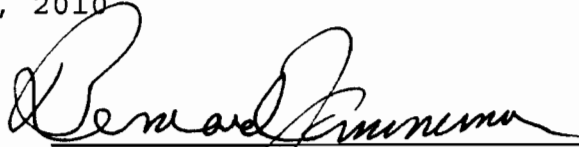
At the October 27, 2010 hearing the parties should be prepared to discuss this possible resolution of Sanofi's motion which the Court is considering:

1. The parties would agree on a neutral testing laboratory to conduct the proposed test. That laboratory would be appointed as a special master under Rule 53. The

1 testing protocol would be developed by the neutral laboratory.

2 2. If the test failed to disclose the presence of HCMV  
3 enhancers in the tested cells, Sanofi would agree to dismiss  
4 its claims against Avastin® with prejudice.

5 Dated: September 24, 2010

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7 \_\_\_\_\_  
8 Bernard Zimmerman  
9 United States Magistrate Judge

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