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

ALZHEIMER'S INSTITUTE OF AMERICA,

No. C-10-482-EDL

Plaintiff,

v.

ELAN CORPORATION PLC, et al.,

Defendants.

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**ORDER VACATING SEPTEMBER 6,  
2011 HEARING ON MOTION TO  
COMPEL; REQUIRING PRODUCTION  
OF DOCUMENTS TO COURT FOR *IN  
CAMERA* REVIEW; REQUIRING  
BRIEFING ON IMPACT OF EASTERN  
DISTRICT OF PENNSYLVANIA  
COURT'S DECISION ON THIS  
COURT'S SCHEDULE**

In this patent infringement case, Defendant Elan Pharmaceuticals, Inc. ("Elan") has filed a motion to compel production of two documents withheld on grounds of attorney-client privilege and work product by Plaintiff Alzheimer's Institute of America, Inc. ("AIA"). Elan also asks the Court to Order AIA to revise its privilege log, and search, collect and produce all other documents withheld on the basis of privilege of other related entities . The Court finds that an *in camera* review of the two documents in question (EDMO-AIA006737-6753 and EDMO-AIA006758-6759) is required for the Court to resolve this dispute. Therefore, the September 6, 2011 hearing on the motion is VACATED and the parties shall lodge the documents with the Court for the Court's *in camera* review within one week of the date of this Order. Upon review of the documents, the Court will set a hearing on the motion to compel if it believes that a hearing is necessary prior to issuing an Order.

Additionally, in connection with the motion to compel, Elan filed motions to seal portions of its motion and reply and certain supporting documents, based in part on the fact that some of the information contained therein had been designated confidential by AIA. AIA has failed to timely file a declaration as required by Local Rule 79-5(d). If AIA desires to retain the information as

1 confidential, it shall file a declaration in compliance with Local Rule 79-5(d) within one week of the  
2 date of this Order.

3 Finally, the Court has become aware that, in the parallel case of Alzheimer's Institute of  
4 America, Inc. v. Avid Radiopharmaceuticals, et al., C-10-6908 (E.D. Pa.), on August 31, 2011 a  
5 Pennsylvania District Court denied AIA and Avid's cross-motions for summary and intends to hold  
6 an early trial on the issue of standing. A determination of the standing issue in the Pennsylvania  
7 litigation appears likely to impact the parties in this case as well. The parties are Ordered to file  
8 briefs of no more than three pages each on the impact of the Pennsylvania District Court's decision  
9 and upcoming trial on standing on this case, and in particular on the Court's current claim  
10 construction schedule.

11  
12 **IT IS SO ORDERED.**

13  
14 Dated: September 1, 2011

  
ELIZABETH D. LAPORTE  
United States Magistrate Judge