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**\*E-FILED 07-08-2010\***

*(Counsel Listed on Signature Page)*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MEDIMMUNE, LLC,  
  
Plaintiff,  
  
v.  
  
PDL BIOPHARMA, INC.,  
  
Defendant.

Case No. CV 08 5590 JF  
Action Filed: December 16, 2008

**STIPULATION AND ~~PROPOSED~~  
ORDER MODIFYING PROTECTIVE  
ORDER**

Honorable Howard R. Lloyd

1 A. Whereas Defendant PDL BioPharma, Inc. (“PDL”) has served certain requests for  
2 production upon MedImmune, LLC (“MedImmune”) that call for the production of documents  
3 containing information covered by confidentiality agreements between MedImmune and certain  
4 third parties;

5 B. Whereas MedImmune has provided notice of the requests and a copy of the  
6 Protective Order (Docket No. 113) to the certain third parties;

7 C. Whereas certain third parties have objected to the production of documents  
8 pursuant to the current version of the Protective Order because the Protective Order permits  
9 employees within PDL to review even documents designated “HIGHLY CONFIDENTIAL —  
10 ATTORNEYS’ EYES ONLY,” see Section 7.3;

11 D. Whereas the Court has the authority to modify the protective order as requested, *see*  
12 *Brown Bag Software v. Symantec Corp.*, 960 F.2d 1365, 1370-71 (9th Cir. 1992); and

13 E. Whereas, in the interest of minimizing third-party motions practice, MedImmune  
14 and PDL have agreed to accommodate the requests of the certain third parties;

15  
16 IT IS HEREBY STIPULATED AND AGREED by and between MedImmune and PDL as  
17 follows:

18 1. Section 2 of the Protective Order (Docket No. 113) is modified to add the following  
19 Section 2.4.1.

20 “THIRD-PARTY CONFIDENTIAL—OUTSIDE COUNSEL’S EYES ONLY” Information or  
21 Items: extremely sensitive “HIGHLY CONFIDENTIAL” information, the potential production of  
22 which has caused a third party to object to the disclosure of the information to another Party.

23 2. Sections 2.7, 2.8, 5.2(a), 5.2(b), 5.2(c), 5.3, 6.3, 8, and 12.4 are amended to add the  
24 phrase “or THIRD-PARTY CONFIDENTIAL—OUTSIDE COUNSEL’S EYES  
25 ONLY” after the phrase “‘CONFIDENTIAL’ or ‘HIGHLY CONFIDENTIAL—  
26 ATTORNEYS’ EYES ONLY.’”

27 3. Section 7 of the Protective Order is modified to add the following Section 7.6.  
28 Disclosure of “THIRD-PARTY CONFIDENTIAL—OUTSIDE COUNSEL’S EYES ONLY”

- 1 Information of Items. Unless otherwise ordered by the court or permitted in writing by the  
2 Designating Party, a Receiving Party may disclose the information or item designated “THIRD-  
3 PARTY CONFIDENTIAL—OUTSIDE COUNSEL’S EYES ONLY” only to:
- 4 (a) the Receiving Party’s Outside Counsel;
  - 5 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this  
6 litigation, and (2) who have been subject to section 7.4 above and who have signed the  
7 “Agreement to Be Bound by Protective Order” (Exhibit A);
  - 8 (c) the Court and its personnel;
  - 9 (d) court reporters, their staffs, and professional vendors to whom disclosure is reasonably  
10 necessary for this litigation; and
  - 11 (e) witnesses, to the extent provided in section 7.5.

12 4. Section 7.5 of the Protective Order (Docket No. 113) is amended to replace the  
13 final sentence with the following:  
14 Protected Material may be disclosed to third-party fact witnesses during the course of a deposition  
15 only if the deponent is reasonably believed to be already familiar with such Protected Material,  
16 *except* that material designated “THIRD-PARTY CONFIDENTIAL—OUTSIDE COUNSEL’S  
17 EYES ONLY” may not be shown to third-party fact witnesses. To illustrate, a document  
18 produced by MedImmune and designated “THIRD-PARTY CONFIDENTIAL—OUTSIDE  
19 COUNSEL’S EYES ONLY” may not be shown to a fact witness currently employed by PDL  
20 during that witness’ deposition.

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1 SO STIPULATED.

2 DATED: July 7, 2010.

WILLIAMS & CONNOLLY LLP

3  
4 /s/ Thomas S. Fletcher  
GERSON A. ZWEIFACH  
5 PAUL B. GAFFNEY  
AARON P. MAURER  
6 DAVID I. BERL  
JESSAMYN S. BERNIKER  
THOMAS S. FLETCHER

7 Attorneys for Plaintiff  
8 MEDIMMUNE, LLC

9 DATED: July 7, 2010.

WEIL, GOTSHAL & MANGES LLP

11 /s/ Peter Sandel  
12 MATTHEW D. POWERS  
13 VERNON M. WINTERS  
14 PETER SANDEL  
REBECCA FETT  
AARON Y. HUANG

15 Attorneys for Defendant  
16 PDL BIOPHARMA, INC.

17 ~~PROPOSED~~ ORDER

18  
19 Good cause appearing, IT IS SO ORDERED.

20 DATED: July 8, 2010.

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23 THE HONORABLE HOWARD R. LLOYD  
24 UNITED STATES MAGISTRATE JUDGE  
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**GENERAL ORDER ATTESTATION**

I, Jeffrey E. Faucette, am the ECF user whose ID and password are being used to file the **Stipulation And [Proposed] Order Modifying Protective Order.**

In compliance with General Order 45, X.B., I hereby attest that Thomas S. Fletcher and Peter Sandel have concurred in this filing.

\_\_\_\_\_  
/s/  
Jeffrey E. Faucette