

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GENENTECH, INC.,)	Case No.: 10-CV-02037-LHK
)	
Plaintiff,)	
v.)	
)	ORDER DENYING ADDITIONAL
THE TRUSTEES OF THE UNIVERSITY OF)	MOTIONS TO SEAL
PENNSYLVANIA, a Pennsylvania non-profit)	
corporation,)	
)	
Defendant.)	

The Court granted-in-part Genentech’s initial Administrative Motion to Seal in relation to its Motion for Leave to file a First Amended Complaint based on U Penn’s representation that the deposition testimony and documents cited and attached contained highly confidential information. *See* Dkt. No. 135. Having reviewed the documents cited in the course of preparing its Order on Genentech’s Motion for Leave to file a First Amended Complaint, the Court is no longer persuaded that these documents contain properly sealable information. Specifically, U Penn seeks to seal:

Deposition testimony by the named inventors of the ’752 Patent relating to experiments referenced in the ’752 Patent and to other publications;

Data from the labs of the named inventors of the ’752 Patent which are related to or possibly the basis of the invention claimed in the ’752 Patent, and which were derived from experiments conducted in the early 1990s;

1 Deposition testimony by the prosecuting attorneys who worked on the '752 Patent
2 prosecution relating to matters of public record (such as the fact that different attorneys worked on
3 the prosecution on behalf of U Penn, events that took place during the '752 Patent prosecution,
4 etc.).

5 A document is not automatically sealable simply because it is non-public. If the document
6 contains information that has become public otherwise, or if the document does not contain
7 information that is "privileged or protectable as a trade secret or otherwise entitled to protection
8 under the law," it is not sealable. Submission of non-meritorious sealing requests burdens the
9 Court and deprives the public of information about this case. The parties are encouraged to
10 carefully scrutinize requests to seal information before submission. If it appears that a sealing
11 request has not been "narrowly tailored," in accordance with Civil Local Rule 79-5, the Court will
12 simply deny the request. Furthermore, the Court would appreciate if both parties would indicate
13 proposed redactions with highlighting (so that proposed redacted text is visible) rather than with
14 marks completely obscuring the text. This will aid the Court's review of proposed redactions.

15 The Court has found that the information previously designated as sealable by U Penn and
16 cited in the Court's Order on Genentech's Motion for Leave to Amend is not properly sealable, and
17 therefore issues its Order without redactions. If U Penn believes that it can adequately support a
18 motion to seal any of the documents submitted in support of the Motion for Leave to Amend, it
19 shall file a new and narrowly-tailored request to seal with proposed redactions highlighted. U Penn
20 shall submit this information **within one week of the date of this Order**. If no response is
21 submitted, none of the information previously submitted for sealing will be sealed, and the parties
22 shall file non-redacted versions of the relevant filings.

23 **IT IS SO ORDERED.**

24 Dated: May 20, 2011

25 
26 LUCY H. KOH
27 United States District Judge
28