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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GENENTECH, INC.,	)	Case No.: C 10-2037 PVT
Plaintiff,	)	<b>ORDER RE PARTIES' FORM OF PROTECTIVE ORDER</b>
v.	)	
THE TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA,	)	
Defendant.	)	

On September 24, 2010, the parties submitted a proposed form of stipulated protective order. Some of the provisions of the proposed form of order are not acceptable to the court.<sup>1</sup> Rather than spend time identifying all of the problems with the proposed form of order, the court finds it more efficient to direct the parties to use the one of the court's model forms of protective order.

Therefore,

IT IS HEREBY ORDERED that, no later than December 1, 2010, the parties shall submit a revised form of protective order that uses the wording of the court's model "Stipulated Protective

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<sup>1</sup> For example, Paragraph 2.(c) of the proposed form of order purports to make it improper to designate information confidential if the information *thereafter* is disclosed by a party as a matter of right – something the designating party would have know way of predicting at the time it designates the information confidential. A more significant problem is the proposed provision in Paragraph 19 that *automatically* relieves a party of any waiver of privilege that would otherwise result from an inadvertent disclosure. Such determinations must be made based on the facts and circumstances surrounding specific inadvertent disclosures.

1 Order for Litigation Involving Patents, Highly Sensitive Confidential Information And/or Trade  
2 Secrets” available in the “Forms” section of the court’s website (www.cand.uscourts.gov). If the  
3 parties believe that modification<sup>2</sup> of the court’s model form of order is reasonably necessary for the  
4 present action, they shall also submit a joint brief explaining what modification they seek, and why it  
5 is reasonably necessary for the present action.

6 IT IS FURTHER ORDERED that, pending entry of the final form of protective order, the  
7 handling of confidential information shall be governed by the provisions of the court’s model  
8 “Stipulated Protective Order for Litigation Involving Patents, Highly Sensitive Confidential  
9 Information And/or Trade Secrets.”

10 Dated: 11/19/10

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12 PATRICIA V. TRUMBULL  
13 United States Magistrate Judge  
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28 <sup>2</sup> As used herein, “modification” does not include merely selecting one of two or more  
optional provisions so long as the wording of the option selected accurately reflects the wording in the  
court’s model form of order.