

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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AMGEN INC. and AMGEN	)	
MANUFACTURING, LIMITED,	)	
	)	
	)	
Plaintiffs,	)	C.A. No. 1:15-cv-00839-RGA
	)	
v.	)	
	)	
HOSPIRA, INC.,	)	
	)	
	)	
Defendant.	)	

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**HOSPIRA, INC.’S MOTION FOR JUDGMENT AS A MATTER OF LAW  
UNDER RULE 50(B) AND, IN THE ALTERNATIVE,  
FOR REMITTITUR OR NEW TRIAL UNDER RULE 59**

Pursuant to Federal Rule of Civil Procedure 50(b), Hospira Inc. (“Hospira”) respectfully moves this Court for judgment as a matter of law that (1) the manufacture of the 21 accused batches of Hospira drug substance is protected by the safe harbor provisions of 35 U.S.C. § 271(e)(1); (2) claims 24 and 27 of U.S. Patent No. 5,856,298 are not infringed by Hospira; (3) claims 24 and 27 of U.S. Patent No. 5,856,298 are invalid as anticipated and obvious; and (4) damages can be no greater than \$1.5 million per batch, if sold. In the alternative, the Court should order a new trial and/or remittitur pursuant to Fed. R. Civ. P. 59.

The grounds for judgment as a matter of law, new trial and remittitur are set forth in Hospira’s opening brief, submitted herewith.

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Dated: October 23, 2017

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Plaintiffs,	)	C.A. No. 1:15-cv-00839-RGA
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	)	
HOSPIRA, INC.	)	
	)	
Defendant.	)	
_____	)	

**[PROPOSED] ORDER**

Having considered Defendant Hospira, Inc.’s Rule 50(b) Motion for Judgment as a Matter of Law and, in the Alternative, for Remittitur or New Trial Under Rule 59 (D.I. \_\_\_\_), the Court has determined that the Motion should be GRANTED.

Accordingly, IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2017 that the Motion is GRANTED.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE