

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 18-61828-CIV-WPD/LSS

AMGEN INC. and AMGEN  
MANUFACTURING LIMITED,

Plaintiffs,

v.

APOTEX INC. and APOTEX CORP.,

Defendants.

**DEFENDANTS APOTEX INC. AND APOTEX CORP.'S MOTION TO DISMISS FOR  
FAILURE TO STATE A CLAIM PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendants Apotex Inc. and Apotex Corp., by and through its respective undersigned attorneys, respectfully requests that the Court dismiss Plaintiffs Amgen Inc. and Amgen Manufacturing Limited's Complaint for Patent Infringement for failure to state a claim on which relief may be granted. The grounds for this motion are set forth in the Memorandum in Support which is being filed contemporaneously herewith.

December 10, 2018

Respectfully submitted

By: /s/ Simeon D. Brier  
Simeon D. Brier (Florida Bar No. 525782)  
Matthew B. Criscuolo (Florida Bar No. 58441)  
**COZEN O'CONNOR**  
One North Clematis Street  
Suite 510  
West Palm Beach, FL 33401  
Telephone: 561-515-5250  
Email: sbrier@cozen.com  
mcriscuolo@cozen.com

*and*

Kerry B. McTigue  
Barry P. Golob  
W. Blake Coblentz  
Aaron S. Lukas  
(*pro hac vice* to be filed)  
**COZEN O'CONNOR**  
1200 Nineteenth Street NW  
Washington, DC 20036  
Telephone: 202-912-4800  
Email: kmctigue@cozen.com  
bgolob@cozen.com  
wcoblentz@cozen.com  
alukas@cozen.com

*Attorneys for Defendants Apotex Inc. and  
Apotex Corp.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 10, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to electronically receive Notices of Electronic Filing.

/s/Simeon D. Brier

Simeon D. Brier

**SERVICE LIST**

John F. O'Sullivan  
Allen P. Pegg  
Jason D. Sternberg  
**HOGAN LOVELLS**  
600 Brickell Ave., Suite 2700  
Miami, FL 33131  
Telephone: (305) 459-6500  
Facsimile: (305) 459-6550  
Email: john.osullivan@hoganlovells.com  
allen.pegg@hoganlovells.com  
jason.sternberg@hoganlovells.com

*Of Counsel:*

Nicholas Groombridge  
Jennifer H. Wu  
Jennifer Gordon  
Jacob T. Whitt  
Stephen A. Maniscalco  
Golda Lai  
**PAUL, WEISS, RIFKIND, WHARTON & GARRISON**  
1285 Avenue of the Americas  
New York, NY 10019  
Telephone: (212) 373-3000  
Facsimile: (212) 757-3990  
Email: ngroombridge@paulweiss.com  
jwu@paulweiss.com  
jengordon@paulweiss.com  
jwhitt@paulweiss.com  
smaniscalco@paulweiss.com  
glai@paulweiss.com

Wendy A. Whiteford  
Kimberlin Morley  
Eric Agovino  
**AMGEN INC.**  
One Amgen Center Drive  
Thousand Oaks, CA 91320  
Telephone: (805)447-1000  
Facsimile: (805) 447-1010  
Email: wendy@amgen.com  
kmorley@amgen.com  
eagovino@amgen.com

*Attorneys for Plaintiffs Amgen Inc. and  
Amgen Manufacturing Limited*