

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-61631-CIV-COHN/SELTZER

AMGEN, INC., and AMGEN  
MANUFACTURING LIMITED,

Plaintiffs,

v.

APOTEX INC. and APOTEX CORP.,

Defendants.

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**ORDER ON JANSSEN BIOTECH, INC.'S MOTION FOR LEAVE TO FILE A BRIEF AS  
AMICUS CURIAE IN SUPPORT OF PLAINTIFFS AMGEN, INC.'S and AMGEN  
MANUFACTURING LIMITED'S MOTION FOR PRELIMINARY INJUNCTION**

**THIS CAUSE** has come before the Court upon a motion DE [49] by Janssen Biotech, Inc. ("Janssen"), to appear as *amicus curiae* for the purpose of submitting a memorandum of law in support of the Plaintiffs' Motion for Preliminary Injunction. The Plaintiffs do not oppose the request, but Janssen reports that the Defendants object.

Janssen is a plaintiff in the District of Massachusetts in a case involving a similar issue. It seeks to file a brief with additional argument concerning whether a notice of commercial marketing is mandatory under the Biologics Price Competition and Innovation Act of 2009.

"The acceptance of amicus briefs is well within the discretion of the Court." *Strasser v. Doorley*, 432 F.2d 567, 569 (1<sup>st</sup> Cir. 1970). "[A]bsent joint consent of the parties, acceptance of an intervenor as *amicus curiae* should be allowed only sparingly, unless the amicus has a special interest, or unless the Court feels that existing counsel

need assistance.” *Donovan v. Gillmor*, 535 F. Supp. 154, 159 (N.D. Ohio 1982); see also, *News and Sun-Sentinel Co. v. Cox*, 700 F. Supp. 30, 31-32 (S.D. Fla. 1988).

Janssen’s only interest in this litigation is its status as a plaintiff in another case involving similar issues. Janssen will not be bound by the outcome of this litigation. Furthermore, the Court finds that the Plaintiffs in this case are well-represented by counsel and additional assistance is not necessary. Accordingly, it is hereby

**ORDERED AND ADJUDGED** that the Motion DE [49] of Janssen Biotech, Inc., for Leave to File a Brief as *Amicus Curiae*, be and the same is **DENIED**.

**DONE AND ORDERED** in Chambers, Fort Lauderdale, Florida, this 2<sup>nd</sup> day of November, 2015.

  
JAMES I. COHN  
United States District Judge