

IPR2016-00460
Patent Owners' Notice of Non-Opposition to Motion for
Joinder and Waiver of Preliminary Response

Filed on behalf of Patent Owners Genentech, Inc. and City of Hope by:

David L. Cavanaugh Reg. No. 36,476 Heather M. Petruzzi Reg. No. 71,270 Robert J. Gunther, Jr. <i>Pro Hac Vice</i> Application Pending Wilmer Cutler Pickering Hale and Dorr LLP 1875 Pennsylvania Ave., NW Washington, DC 20006	Adam R. Brausa Reg. No. 60,287 Daralyn J. Durie <i>Pro Hac Vice</i> Application Pending Durie Tangri LLP 217 Leidesdorff Street San Francisco, CA 94111	Jeffrey P. Kushan Reg. No. 43,401 Peter S. Choi Reg. No. 54,033 Sidley Austin LLP 1501 K Street, N.W. Washington, D.C. 20005
---	--	---

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENZYME CORPORATION,
Petitioner

v.

GENENTECH, INC. AND CITY OF HOPE
Patent Owners

Case IPR2016-00460
Patent 6,331,415

**PATENT OWNERS' NOTICE OF NON-OPPOSITION TO MOTION FOR
JOINDER AND WAIVER OF PRELIMINARY RESPONSE**

IPR2016-00460
Patent Owners' Notice of Non-Opposition to Motion for
Joinder and Waiver of Preliminary Response

Patent Owners Genentech Inc. ("Genentech") and City of Hope submit this Notice of Non-Opposition to Motion for Joinder and Waiver of Preliminary Response to Petitioner Genzyme Corporation's ("Genzyme") Motion for Joinder Under 35 U.S.C. § 315(c), and 37 C.F.R. § 42.22 and § 42.122(b) ("Motion for Joinder") (Paper 10). In view of Genzyme's agreement to abide by the conditions set forth in its Motion for Joinder and reproduced below, Patent Owners do not oppose Genzyme's motion to join this *inter partes* review with IPR2015-01624, filed by Sanofi-Aventis U.S. LLC ("Sanofi-Aventis") and Regeneron Pharmaceuticals, Inc. ("Regeneron") and relating to the same patent at issue here, U.S. Patent No. 6,331,415 ("the Cabilly '415 patent"). The conditions are as follows:

1. Genzyme agrees to "consolidated filings for all substantive papers in the proceeding (*e.g.*, Reply to the Patent Owner's Response, Opposition to Motion to Amend, Motion for Observation on Cross Examination Testimony of a Reply Witness, Motion to Exclude Evidence, Opposition to Motion to Exclude Evidence and Reply)" and to "incorporate its filings with those of Sanofi-Aventis and Regeneron into a consolidated filing in the Sanofi-Aventis IPR [2015-01624], including being subject to the ordinary rules for one party on page

limits.” (Paper 10 at 6.) Genzyme further agrees that “Sanofi, Regeneron and Genzyme will be jointly responsible for the consolidated filings” with the exception for motions that do not involve the other parties. (*Id.* at 6, 9.)

2. Genzyme agrees “not to be permitted any arguments separate from those advanced by Sanofi-Aventis and Regeneron in the consolidated filings” in order to “avoid lengthy and duplicative briefing.” (Paper 10 at 6.)
3. Genzyme agrees that “[c]onsolidated discovery is also appropriate given that Genzyme, Sanofi-Aventis and Regeneron are using the same expert declaration in the two proceedings.” Specifically, “Genzyme, Sanofi-Aventis and Regeneron will designate an attorney to conduct the cross-examination of any given witness produced by Genentech and City of Hope, and the redirect of any given witness produced by Genzyme, Sanofi-Aventis and Regeneron within the timeframe normally allotted by the rules for one party. Genzyme will not receive any separate cross-examination or redirect time from that of Sanofi-Aventis and Regeneron.” (Paper 10 at 6-7; *see also id.* at 9.)

IPR2016-00460
Patent Owners' Notice of Non-Opposition to Motion for
Joinder and Waiver of Preliminary Response

4. Genzyme agrees that “[t]he Genzyme IPR [2016-00460] will be instituted and joined with the Sanofi-Aventis IPR [2015-01624] on the same grounds as those for which review was instituted in the Sanofi-Aventis IPR.” (Paper 10 at 8.)
5. Genzyme agrees that “[t]he scheduling order for the Sanofi-Aventis IPR will apply to the joined proceeding.” (Paper 10 at 8.)

If the Board grants Genzyme's joinder motion, Patent Owners waive their right to a Preliminary Response (37 C.F.R. § 42.107).

Respectfully submitted,

Date: March 28, 2016

/David L. Cavanaugh/
David L. Cavanaugh
Registration No. 36,476
Counsel for Patent Owners

WILMER CUTLER PICKERING HALE AND DORR LLP
1875 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20006
TEL: 650-600-5036
FAX: 650-858-6100
EMAIL: david.cavanaugh@wilmerhale.com

CERTIFICATE OF SERVICE

I hereby certify that, on March 28, 2016, I caused a true and correct copy of the foregoing materials:

- Patent Owners' Notice of Non-Opposition to Motion for Joinder and Waiver of Preliminary Response

to be served via electronic mail on the following attorneys of record:

Richard McCormick
Lisa M. Ferri
Brian W. Nolan
Mayer Brown LLP
1221 Avenue of the Americas
New York, NY 10020-1001
Rmccormick@mayerbrown.com
LFerri@mayerbrown.com
BNolan@mayerbrown.com
MB-Genzyme-Cabilly-IPR-2@mayerbrown.com

/Rebecca A. Whitfield/
Rebecca A. Whitfield
Reg. No. 73,756
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109