

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**AMGEN INC., AMGEN MANUFACTURING
LIMITED,**
Plaintiffs-Appellants

v.

SANDOZ INC.,
Defendant-Appellee

2015-1499

Appeal from the United States District Court for the
Northern District of California in No. 3:14-cv-04741-RS,
Judge Richard Seeborg.

SUA SPONTE

PER CURIAM.

O R D E R

The court *sua sponte* enters the following order in
Amgen Inc. v. Sandoz Inc. (No. 2015-1499).

IT IS ORDERED THAT:

The mandate of this court issued on October 23, 2015 is recalled, the appeal is reinstated, and the court's July 21, 2015 opinion is vacated.

The parties are hereby directed to file simultaneous supplemental briefs, not to exceed twenty pages each, stating their positions relating to the appropriate action to be taken by the court on remand following the Supreme Court's decision, *Sandoz Inc. v. Amgen Inc.*, 137 S. Ct. 1664 (2017), *see* Internal Operating Procedure ("IOP") 15(3), particularly whether: (1) the BPCIA preempts additional remedies under state law for an applicant's failure to comply with 42 U.S.C. § 262(l)(2)(A); (2) Sandoz has waived any preemption defense; and (3) California law would treat noncompliance with 42 U.S.C. § 262(l)(2)(A) as "unlawful" under Cal. Bus. & Prof. Code § 17200. The briefs shall be filed no later than two weeks from the date of this order.

FOR THE COURT

July 26, 2017
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

cc: Deanne E. Maynard
Nicholas Groombridge