

No. 2015-1499

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

AMGEN INC., AMGEN MANUFACTURING LIMITED,

Plaintiffs-Appellants,

v.

SANDOZ INC.,

Defendant-Appellee.

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

**MOTION OF THE UNITED STATES FOR A EXTENSION OF TIME IN
WHICH TO FILE AMICUS CURIAE BRIEF ADDRESSING ISSUE OF
FEDERAL PREEMPTION**

By order of July 26, 2017, this Court directed the parties to file simultaneous supplemental briefs addressing several questions in this case, including whether the Biologics Price Competition and Innovation Act of 2009 (BPCIA), 124 Stat. 808, preempts additional remedies under state law for an applicant's failure to comply with 42 U.S.C. § 262(l)(2)(A). The United States is currently considering whether to file an amicus brief address that preemption issue pursuant to Federal Rule of Appellate Procedure 29(a)(2).

On August 21, 2017, the Court extended the time for the filing of the parties' supplemental briefs from August 23 to August 28, 2017. As a result, an amicus brief would be due under Rule 29(a)(6) on September 5, 2017. (September 4, 2017, which is seven days from August 28, 2017, is a holiday).

The Solicitor General is responsible for deciding whether to authorize amicus participation by the United States in this case. To allow sufficient time for the Solicitor General to consider the federal preemption issue on which this Court requested briefing and for the preparation and review of an amicus brief in the event that amicus participation is authorized, the United States respectfully requests an extension of time of 6 days, to and including September 11, within which to file an amicus brief. The parties have authorized us to represent that they have no objection to this motion. Accordingly, the United States respectfully requests the Court to extend the time for filing an amicus brief responding to the Court's briefing order of July 26, 2017, to and including September 11, 2017.

Respectfully submitted,

Scott R. McIntosh
(202) 514-4052
s/Lowell V. Sturgill Jr.
Lowell V. Sturgill Jr.
(202) 514-3427
*Attorneys, Civil Division
Appellate Staff, Room 7241
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530*

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit by using the appellate CM/ECF system on August 21, 2017.

I certify that all participants in the case are registered Cm/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/Lowell V. Sturgill Jr.
Lowell V. Sturgill Jr.

Dated: August 21, 2017