

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMGEN INC. and AMGEN)	
MANUFACTURING, LIMITED,)	
)	
)	
Plaintiffs,)	C.A. No. 1:15-cv-00839-RGA
)	
v.)	
)	
HOSPIRA, INC.,)	
)	
)	
Defendant.)	

**HOSPIRA, INC.’S RULE 50(A) MOTION FOR JUDGMENT
AS A MATTER OF LAW ON THE ISSUES OF SAFE HARBOR,
NONINFRINGEMENT, INVALIDITY, AND DAMAGES**

Pursuant to Federal Rule of Civil Procedure 50(a) and the Court’s instruction in court on September 22, 2017,¹ Hospira Inc. (“Hospira”) respectfully moves this Court for judgment as a matter of law that (1) the manufacture of the 21 accused batches of Hospira drug substance is protected by the safe harbor provisions of 35 U.S.C. § 271(e)(1); (2) claims 1-7 of U.S. Patent No. 5,756,349 are not infringed by Hospira; (3) claims 24 and 27 of U.S. Patent No. 5,856,298 are not infringed by Hospira; (4) claims 24 and 27 of U.S. Patent No. 5,856,298 are invalid as anticipated and obvious; and (5) damages can be no greater than \$1.5 million per batch, if sold.

The grounds for judgment as a matter of law are set forth in Hospira’s opening brief, submitted herewith.

¹ *Amgen Inc. v. Hospira, Inc.*, No. 15-839-RGA, Transcript of Proceedings, September 18-22, 2017 (“Trial Tr.”) 1520:12-21 (acknowledging Rule 50(a) motions have “been made” and requesting Hospira’s counsel “submit them in writing later”).

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Dated: September 27, 2017

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HOSPIRA, INC.)	
)	
Defendant.)	
_____)	

[PROPOSED] ORDER

Having considered Defendant Hospira, Inc.’s Rule 50(a) Motion for Judgment as a Matter of Law, the Court has determined that the Motion should be GRANTED.

Accordingly, IT IS SO ORDERED this _____ day of _____, 2017 that the Motion is GRANTED.

UNITED STATES DISTRICT JUDGE