



changes with each dispute. I have undertaken to resolve each dispute with these considerations in mind.

It is therefore, on this 7<sup>th</sup> day of September, 2018,

**ORDERED**

As follows:

1. AbbVie will produce the BPCIA patent contention exchanges between AbbVie and Amgen, and AbbVie's settlement agreements concerning Adalimumab. Doc. No. 138, at 2. Production of these documents will not be overly burdensome, and there is sufficient reason to believe that the discovery will produce admissible and relevant evidence regarding several material issues in the case.
2. Boehringer will supplement its response(s) to AbbVie's interrogatory No. 20 by identifying each fact (if not fully described and contained within a document) and each document (by Bates stamp number) which serves as the basis of its "information and belief." Tr. 8/3 at 10-11. Any document not specifically referenced and any fact not specifically described may be excluded, absent a showing of good cause, from consideration in connection with Boehringer's unclean hands defense, whether at the summary judgment stage or at trial.
3. Boehringer will respond to AbbVie's RFP 115, but only with respect to Boehringer's SPIRIVA product. Tr. 8/3 at 9-10, 17.

4. The parties will provide me with a joint status letter<sup>2</sup> on the resolution of their dispute concerning 85 batch records sought by Boehringer. 8/3 Tr. at 20-23, 31, 38-39; 8/13 Tr. at 28. This letter is due by September 15, 2018.
5. AbbVie's request for discovery concerning Risankizumab is denied, except that Boehringer will produce its patent application documents. Tr. 8/3 at 53. AbbVie's request for documents relating to Boehringer's experience with Enbrel is denied. Tr. 8/3 at 45. The central focus of this case is Humira. Boehringer's experience as a contract manufacturer of Amgen's product, Enbrel, may produce some information relevant to this suit, but at this stage of the case the burden in time, effort, and money of producing Enbrel documents is disproportionate to the expected value of the discovery in resolving the core issues in this case. Tr. 8/3 at 55-57.
6. AbbVie will state, in response to Boehringer's interrogatory on the subject, the date of conception and reduction to practice of each of the inventions in this case. In addition, and not by way of alternative method of response under Fed. R. Civ. Pro. 33(d), AbbVie may also identify by Bates stamp number all documents that support its date of conception and reduction to practice. Tr. 8/3 at 72. AbbVie's request that these responses be postponed until after invalidity contentions have been exchanged, in nine months, after depositions are concluded, is denied.
7. Boehringer will produce the batch records requested by AbbVie. Tr. 8/13 at 13. If Boehringer contends that the records have already been produced,

---

<sup>2</sup> This status report, as well as the one referred to in paragraph 9, below, may be folded into the parties' monthly status report due September 15, 2018.

they will provide a chart listing each document responsive to AbbVie's request. If AbbVie contends that there are documents still missing, AbbVie will respond to Boehringer's chart with an item-by-item detail of each of its reasons for believing that there are documents missing. Boehringer will either produce the missing documents or provide a reply under oath to each of AbbVie's detailed reasons, along with an attestation that diligent search has been made, in light of AbbVie's response, and that there are no other documents in Boehringer's possession responsive to AbbVie's request.

8. AbbVie will produce patent prosecution documents, and produce a privilege log for any documents withheld, in conformance with Fed. R. Civ. Pro. 26(b)(5). Tr. 8/13 at 15-17. If there are documents to which Boehringer is claiming privilege and yet has not produced a corresponding privilege log (*see* Tr. 8/13 at 21) the parties will meet and confer in an effort to resolve the dispute.
9. The parties will provide me with a joint status letter on the resolution of their dispute concerning Boehringer's request for certain patent

prosecution files dealing with patents not in suit. Tr. 8/13 at 25-26. This letter is due by September 15, 2018.

**BY THE COURT:**

***s/Richard A. Lloret***  
\_\_\_\_\_  
**HONORABLE RICHARD A. LLORET**  
***United States Magistrate Judge***