

NOTE: This order is nonprecedential.

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

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**MOMENTA PHARMACEUTICALS, INC.,**  
*Appellant*

v.

**BRISTOL-MYERS SQUIBB COMPANY,**  
*Appellee*

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2017-1694

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Appeal from the United States Patent and Trademark  
Office, Patent Trial and Appeal Board in No. IPR2015-  
01537.

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**ORDER TO SHOW CAUSE**

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Before NEWMAN, DYK, and CHEN, *Circuit Judges*.

PER CURIAM.

**ORDER**

Momenta Pharmaceuticals, Inc. petitioned for inter partes review of U.S. Patent No. 8,476,239. The Patent Trial and Appeal Board upheld patentability, and Momenta appealed to this court. The appeal is pending.

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COMPANY

Momenta filed a letter on October 1, 2018 in accordance with Fed. R. App. P. 28(j), including a press release that states that Momenta “has initiated discussions with its collaboration partner, Mylan, to exit its participation in the development of . . . M834, a proposed biosimilar of ORENCIA®,”—the subject of this appeal.

Momenta’s letter stated that it “will promptly inform the Court of any outcome of its discussions with Mylan that might affect this Court’s ongoing jurisdiction.” On October 3, 2018, Bristol-Myers Squibb Co. filed a response stating: “Momenta’s voluntary discontinuance of its experimental product would both moot this appeal and preclude vacatur of the PTAB’s decision.” As of this date, Momenta has not written further.

Accordingly,

IT IS ORDERED THAT:

- (1) Momenta Pharmaceuticals, Inc. is Ordered to show cause why the appeal should not be dismissed as moot. Any response shall be filed no later than ten days after the date of issuance of this Order.
- (2) Any response by Bristol-Myers Squibb Co. shall be filed no later than ten days after filing by Momenta of any response to this Order.

FOR THE COURT

October 23, 2018  
Date

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