

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 18-61828-CIV-WPD/LSS

AMGEN INC. and AMGEN
MANUFACTURING, LIMITED,

Plaintiffs,

v.

APOTEX INC. and APOTEX CORP.,

Defendants.

**DEFENDANTS' UNOPPOSED MOTION FOR FURTHER EXTENSION OF TIME TO
SUBMIT CLAIM CONSTRUCTION BRIEFING**

Defendants Apotex Inc. and Apotex Corp. (collectively, "Apotex"), by and through their undersigned counsel, hereby file this Unopposed Motion for a Further Extension of Time to Submit Claim Construction Briefing. In support thereof, Defendants state:

1. On January 2, 2019, Plaintiffs Amgen Inc. and Amgen Manufacturing, Limited (collectively, "Amgen") and Apotex (Amgen and Apotex are collectively referred to as the "Parties") submitted their Proposed Joint Scheduling Report and Discovery Plan [DE 42], pursuant to this Court's August 10, 2018 Order.

2. Pursuant to the Proposed Joint Scheduling Report and Discovery Plan, the Parties proposed to file Opening Claim Construction Briefs by July 12, 2019.

3. On January 3, 2019, this Court entered its Order Setting Trial Date and Discovery Deadlines, Referring Case to Mediation & Referring Discovery Motions to United Magistrate Judge (the "Trial Order") [DE 43]. Pursuant to Paragraph 3 of the Trial Order, this Court considered the parties' suggested discovery schedule and noted that "[d]ates and other

agreements between the parties not otherwise addressed herein shall be considered part of this Order.”

4. On July 11, 2019, Defendants filed an Unopposed Motion for Extension of Time to Submit Claim Construction Briefing. Defendants requested that the Court extend the deadline for filing the Opening Claim Construction Briefs by two (2) weeks, making that deadline July 26, 2019. Defendants further requested that the Court permit two (2) week extensions of the deadlines for filing Responsive Claim Construction Briefs, making the new deadline August 16, 2019, the completion of claim construction expert discovery, making the new deadline August 30, 2019, and filing Reply Claim Construction Briefs, making the new deadline September 6, 2019.

5. On July 12, 2019, the Court granted Defendants’ Unopposed Motion for Extension of Time to Submit Claim Construction Briefing.

6. On July 24, 2019, Defendants filed an Unopposed Motion for Extension of Time to Submit Claim Construction Briefing. Defendants requested that the Court extend the deadline for filing the Opening Claim Construction Briefs by two (2) weeks, making that deadline August 9, 2019. Defendants further requested that the Court permit two (2) week extensions of the deadlines for filing Responsive Claim Construction Briefs, making the new deadline August 30, 2019, the completion of claim construction expert discovery, making the new deadline September 13, 2019, and filing Reply Claim Construction Briefs, making the new deadline September 20, 2019.

7. On July 26, 2019, the Court granted Defendants’ Unopposed Motion for Extension of Time to Submit Claim Construction Briefing.

8. The Parties are currently working on a Stipulation and Unopposed Motion for

Substitution of Parties to substitute a new party/entity in place of Apotex in this action. The Parties and their counsel have been diligently working on the transition of this action and related filings, and as a result of same, Apotex requests a brief further extension.

9. In view of the contemplated Stipulation and Unopposed Motion for Substitution of Parties, and subject to the Court's approval, Defendants request that the Court further extend the deadline for filing the Opening Claim Construction Briefs by an additional two (2) weeks, making that deadline August 23, 2019. As a result of that accommodation to the schedule, subject to the Court's approval, Defendants respectfully request that the Court permit two (2) week extensions of the deadlines for filing Responsive Claim Construction Briefs, making the new deadline September 13, 2019, the completion of claim construction expert discovery, making the new deadline September 27, 2019, and filing Reply Claim Construction Briefs, making the new deadline October 4, 2019.

10. Counsel for Apotex has conferred with counsel for Amgen, who advised that Amgen has no opposition to the requested extension.

11. The brief extension is requested in good faith, not for the purposes of delay and will not affect the other dates in the case schedule.

WHEREFORE, Defendants respectfully request that the Court grant the relief requested herein and extend the claim construction deadlines as outlined above.

LOCAL RULE 7.1 CERTIFICATION

On August 8, 2019, counsel for Apotex conferred with counsel for Amgen regarding the relief sought in this motion. Amgen does not oppose the relief sought in this motion.

Respectfully submitted,

By: /s/ Simeon D. Brier

Simeon D. Brier (Florida Bar No. 525782)
Matthew B. Criscuolo (Florida Bar No. 58441)
COZEN O'CONNOR
One North Clematis Street
Suite 510
West Palm Beach, FL 33401
Telephone: 561-515-5250
Email: sbrier@cozen.com
mcriscuolo@cozen.com

and

Admitted Pro Hac Vice

Kerry B. McTigue
Barry P. Golob
W. Blake Coblenz
Aaron S. Lukas
COZEN O'CONNOR
1200 Nineteenth Street NW
Washington, DC 20036
Telephone: 202-912-4800
Email: kmctigue@cozen.com
bgolob@cozen.com
wcoblenz@cozen.com
alukas@cozen.com

and

Keri L. Schaubert
COZEN O'CONNOR
277 Park Avenue
New York NY 10172
Telephone: 212-883-4900

*Attorneys for Defendants
Apotex Inc. and Apotex Corp.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 8, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to counsel and that a true and correct copy was served via electronic mail on all counsel of parties of record.

/s/ Simeon D. Brier
Simeon D. Brier

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 18-61828-CIV-WPD/LSS

AMGEN INC. and AMGEN
MANUFACTURING, LIMITED,

Plaintiffs,

v.

APOTEX INC. and APOTEX CORP.,

Defendants.

**[PROPOSED] ORDER GRANTING UNOPPOSED MOTION FOR FURTHER
EXTENSION OF TIME TO SUBMIT CLAIM CONSTRUCTION BRIEFING**

THIS CAUSE has come before the Court upon Defendants Apotex Inc. and Apotex Corp.’s (collectively, “Apotex”) Unopposed Motion For Further Extension of Time to Submit Claim Construction Briefing. Upon reviewing Defendants’ Unopposed Motion For Further Extension of Time to Submit Claim Construction Briefing, and being otherwise fully advised in the premises, it is **ORDERED and ADJUDGED** that the Unopposed Motion for Further Extension is hereby **GRANTED**. The deadline for filing Opening Claim Construction Briefs is August 23, 2019, the deadline for filing Responsive Claim Construction Briefs is September 13, 2019, the completion of claim construction expert discovery is September 27, 2019, and the deadline for filing Reply Claim Construction Briefs is October 4, 2019.

DONE AND ORDERED at Chambers, Fort Lauderdale, Florida, this ____ day of _____, 2019.

United States District Judge

Copies furnished to all counsel of record