

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ABBVIE INC. and
ABBVIE BIOTECHNOLOGY LTD,

Plaintiffs,

v.

ALVOTECH HF.,

Defendant.

Case No. 1:21-cv-02258

Case No. 1:21-cv-02899

Honorable John Z. Lee

Magistrate Judge M. David Weisman

PLAINTIFFS' NOTICE OF NARROWING OF CLAIM CONSTRUCTION ISSUES

Plaintiffs AbbVie Inc. and AbbVie Biotechnology Ltd (“AbbVie”) submit this courtesy notice to inform the Court that two issues in the claim construction briefing need not be addressed at the hearing on Thursday, January 13, 2022. On Friday, January 14, 2022, one day after the hearing, AbbVie is required to identify no more than 10 claims per patent and no more than 20 claims overall that it will assert, selected from the claims in its initial infringement contentions. Dkt. 63 (Case No. 1:21-cv-02258) at 2; Dkt. 53 (Case No. 1:21-cv-02899) at 2; *see also* LPR 3.1(a)(1). In light of the forthcoming deadline and the strong evidence of infringement of the remaining claims, AbbVie has decided that it will no longer assert claims 1-3 and 13-16 of U.S. Patent No. 11,083,792 (“’792 Patent”) and claims 26, 27, and 30 of U.S. Patent No. 8,961,973 (“’973 Patent”). With respect to the ’792 patent, this means that the claim term “a level of fluorescent activity no greater than 0.0144 RFU/sec” is moot, in view of the requirement in the remaining claims that there instead be “no detectible level of fluorescent activity.” In view of the latter requirement, if there is any detectible fluorescent activity, the asserted claims are not satisfied, obviating any need to determine what the level of activity is. With respect to the ’973

patent, “achieving clinical response” will no longer appear in any asserted claims. Thus, neither “a level of fluorescent activity no greater than 0.0144 RFU/sec” (’792 patent) nor “achieving clinical response” (’973 patent) need be addressed at next week’s hearing.

Date: January 7, 2022

Respectfully submitted

/s/ Michael A. Morin

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