

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

_____)	
JANSSEN BIOTECH, INC.,)	
)	
Plaintiff,)	
)	C.A. No. 22-1549-MN
v.)	
)	
AMGEN INC.,)	
)	
Defendant.)	
_____)	

**REVISED STIPULATION AND [PROPOSED] DISCOVERY PLAN AND SCHEDULE
FOR JANSSEN’S PRELIMINARY INJUNCTION MOTION**

WHEREAS, Plaintiff Janssen Biotech, Inc. (“Plaintiff”) filed a Motion for a Preliminary Injunction (“PI Motion”) on March 6, 2023 (D.I. 35);

WHEREAS, on March 17, 2023, the parties submitted a Stipulation and [Proposed] Discovery Plan and Schedule for Janssen’s Preliminary Injunction Motion (D.I. 68);

WHEREAS, in connection with reaching agreement on this stipulation, the parties have come to agreement on, among other things, a provision included separately in Exhibit A filed under seal;

WHEREAS, on March 20, 2023, the Court issued an Order (D.I. 70) informing the parties that if the parties want a decision on the PI Motion by October 31, 2023, briefing needs to be complete by July 21, 2023, and instructed the parties to submit a revised schedule by March 21, 2023. On March 21, 2023, at the parties’ request, the Court extended the deadline for the submission of a revised schedule to March 22, 2023, and on March 22 extended it until noon on March 23;

WHEREAS, Defendant and Plaintiff have met and conferred extensively to reach agreement on a shortened proposed schedule and plan for resolution of the PI Motion consistent with the Court's Order;

IT IS HEREBY STIPULATED, by Plaintiff and Defendant, subject to the approval of the Court, that:

1. Each side will be permitted a total of 20 Requests for the Production of Documents limited to the issues in the PI Motion.

2. Each side will be permitted to depose all declarants whose testimony is submitted by the opposing party in connection with the PI Motion, plus up to two additional witnesses.

3. To facilitate the presentation of issues and arguments, the page limits for the briefing will be as follows:

- a. Janssen has already filed its opening brief (20 pages);
- b. Amgen shall file an answering brief (up to 30 pages);
- c. Janssen shall file a reply brief (up to 20 pages); and
- d. Amgen shall file a sur-reply brief (up to 10 pages), limited to issues of claim

construction and invalidity.

4. The following schedule shall control the proceedings:

Deadline	Proposed Dates
Janssen files PI Motion	3/6/2023 (Completed)
Deadline to serve initial document requests	3/14/2023 (Completed)
Deadline to serve written responses to initial document requests	3/21/2023 (Completed)
Substantial completion of initial document productions	3/28/2023
Deadline by which Janssen produces witnesses for deposition	4/25/2023

[Amgen's position: Deadline for parties to meet and confer on claim construction issues ¹ [Janssen's position: This event is unnecessary as claim construction can be fully addressed in the preliminary injunction briefs (<i>see</i> D.I. 70)]	5/8/2023 [Amgen's Proposal] [No Date] [Janssen's Proposal]
Amgen files Responsive brief	5/17/2023
Deadline for Janssen to serve second document requests (not to exceed total limit of 20) responding to Amgen's Responsive brief	5/19/2023
Deadline for Amgen to serve written responses to Janssen's second document requests	5/23/2023
Substantial completion of Amgen document productions in response to Janssen's second document requests	5/29/2023
Deadline by which Amgen produces witnesses for deposition	6/9/2023
Janssen files Reply brief	6/26/2023
Deadline for Amgen to serve second document requests (not to exceed total limit of 20) responding to Janssen's Reply brief	6/28/2023
Deadline for Janssen to serve written responses to Amgen's second document requests	6/30/2023
Substantial completion of Janssen document productions in response to Amgen's second document requests	7/5/2023
Deadline for Janssen to produce reply declarants for deposition	7/14/2023
Amgen files Sur-Reply brief	7/21/2023
PI Hearing	[Janssen's Position: As soon as possible per the Court's schedule to facilitate resolution by 10/31/2023]

¹ **Amgen's Position: Process to Address Plain and Ordinary Meaning Issues:** Amgen proposes that the parties simultaneously exchange identification of claim terms/phrases to be construed on 5/3/2023 and that they simultaneously exchange proposed constructions for terms/phrases to be construed (parties cannot rely on "plain and ordinary meaning" without providing the specific construction proposed according to the "plain and ordinary meaning") with citations to supporting intrinsic evidence on 5/7/2023.

Janssen's Position: No such process is appropriate or necessary. Amgen can address its claim construction in its opposition brief and Plaintiff will respond. Amgen has a 10-page surreply.

	[Amgen's Position: Amgen believes a hearing should not be necessary unless the Court would find it helpful.]
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Dated: March 23, 2023

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IT IS SO ORDERED this _____ day of _____, 2023.

UNITED STATES DISTRICT JUDGE