

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

REGENERON PHARMACEUTICALS, INC.,

Plaintiff/Counter-Defendant,

v.

CIVIL NO. 1:22-CV-61
(KLEEH)

MYLAN PHARMACEUTICALS INC.,

Defendant/Counter-Claimant.

**ORDER DENYING EMERGENCY MOTION TO MODIFY SCHEDULING ORDER AND
FOR EMERGENCY STATUS CONFERENCE [ECF NO. 415]**

On April 10, 2023, Defendant/Counter-Claimant Mylan Pharmaceuticals Inc. ("Mylan") filed an emergency motion to modify scheduling order and for emergency status conference. On April 12, 2023, Plaintiff/Counter-Defendant Regeneron Pharmaceuticals, Inc. ("Regeneron") filed a response.

In its motion, Mylan asks the Court to order Regeneron to immediately narrow the scope of the proceedings to 3 patents and 12 claims. Mylan states that Regeneron continues to assert 4 patents and 60 claims. Mylan argues that it should not be forced to contend with "five times" the number of patent claims during pretrial exchanges and trial, "a practical impossibility under the current pretrial schedule and in the nine days the Court has allotted for trial."

The Court's Scheduling Order contemplates two rounds of claim narrowing. First, Regeneron was required to reduce its asserted

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patents to 6 patents within 3 days of entry of the Scheduling Order, which it did. Second, Regeneron is required to narrow to "3 patents and 25 claims" within "7 days after Markman order or 7 days after close of fact discovery, whichever is later." The close of fact discovery was on January 18, 2023, but the court has not yet entered its Markman order, so Regeneron has not yet been required to narrow its case to 3 patents and 25 claims.

Regeneron has not violated a Court order by failing, at this point, to narrow its case to 3 patents and 25 claims. The Court finds that Mylan's motion lacks merit. Mylan has not shown good cause for an emergency status conference or a modification of the scheduling order, and its motion is **DENIED** [ECF No. 415].

It is so **ORDERED**.

The Clerk is **DIRECTED** to transmit copies of this Order to counsel of record.

DATED: April 14, 2023



THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA