

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
CLARKSBURG DIVISION**

IN RE: AFLIBERCEPT PATENT LITIGATION

MDL No. 1-24-md-3103-TSK

**THIS DOCUMENT RELATES TO:**

REGENERON PHARMACEUTICALS, INC.,

Plaintiff,

v.

AMGEN INC.,

Defendant.

Civil Action No. 1:24-cv-00039-TSK

**AMGEN INC.’S EMERGENCY MOTION  
TO CLARIFY WHETHER REGENERON’S PRELIMINARY  
INJUNCTION MOTION WILL BE LIMITED TO THE ’865 PATENT**

Amgen respectfully requests clarification of the Court’s May 24, 2024 Order Setting Briefing Schedule with Respect to Any Motion for Preliminary Injunction Against Amgen.<sup>1</sup>

Amgen seeks clarification about which and how many patents Regeneron may include in its motion. Earlier this week, Regeneron withdrew its pending preliminary injunction motions against Celltrion, Formycon, and Samsung Bioepis on all patents other than U.S. Patent No. 11,084,865 (“the ’865 patent”). Regeneron explained that withdrawal was “[i]n an effort to streamline the issues” and that, with respect to Celltrion, Formycon, and Samsung Bioepis,

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<sup>1</sup> For the reasons stated in its Position Statement submitted to the Court on May 10, 2024, Amgen objects to having only 14 days to respond to a preliminary injunction motion (on any number of patents), which will require taking depositions, preparing fact and expert declarations, and drafting an opposition brief.

Regeneron's motions "now seek the same relief as to all Defendants." 24-md-03103-TSK, ECF No. 119.

The Court's order today does not address any limitations regarding Regeneron's motion. To date, Regeneron has indicated that it may file on as many as seven patents against Amgen, which collectively contain over 150 claims.

If the Court's schedule contemplates that Regeneron will limit its motion to the '865 patent, Amgen respectfully requests that the Court clarify its order. If the Court's schedule contemplates that Regeneron may file a motion on additional patents, Amgen respectfully requests that the Court order Regeneron to immediately identify which additional patents and claims will be included in its motion and allow Amgen an additional two weeks to respond. In the other cases in this MDL, the Court allowed the Defendants four weeks to respond to PI motions.

If necessary, counsel for Amgen is available for a Status Conference at the Court's convenience.

May 24, 2024

Respectfully submitted,

**AMGEN INC.,**

/s/ Ashley Hardesty Odell

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 24th day of May, 2024, a true and correct copy of **Amgen Inc.’s Emergency Motion to Clarify Whether Regeneron’s Preliminary Injunction Motion Will Be Limited to the ‘865 Patent** was served electronically, by filing same with the Clerk of Court using the CM/ECF system, which will send notification to all parties of record.

*/s/ Ashley Hardesty Odell*  
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Ashley Hardesty Odell (WVSB #9380)