

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

IN RE: AFLIBERCEPT PATENT LITIGATION

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

**THIS DOCUMENT RELATES TO
CASE NO. 1:22-cv-00061-TSK**

ORDER EXTENDING TEMPORARY RESTRAINING ORDER

On May 17, 2024, the Court granted Plaintiff’s Motion for Temporary Restraining Order, which Order will expire on May 31, 2024, “unless, before that time, the Court for good cause extends the duration of the Order or Defendants consent.” Dkt. No. 776 at 4.

Pursuant to Rule 65(b)(2) of the Federal Rules of Civil Procedure, this Court may extend a temporary restraining order (“TRO”) for up to 14 additional days from the date of its expiration, upon a finding of good cause. Fed. R. Civ. P. 65(b)(2); *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 440 n.15 (1974).

“The purpose of a TRO is to ‘preserve the status quo only until a[n] injunction hearing can be held.’” *ClearOne Advantage, LLC v. Kersen*, -- F. Supp. 3d --, 2024 WL 69918, at *2 (D. Md. Jan. 5, 2024) (quoting *Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 422 (4th Cir. 1999)). As such, good cause to extend the TRO exists where additional time is needed for the adjudication of lasting injunctive relief, such as a permanent injunction motion. *See, e.g., Costa v. Bazron*, 2020 WL 2410502, at *2 (D.D.C. May 11, 2020) (“[C]ourts have . . . found ‘good cause’ where more time is needed fully to consider the parties’ arguments and motions[.]”); *Versaterm Inc. v. City of Seattle*, 2016 WL 4399634, at *1 (W.D. Wash. Aug. 18,

2016) (extending a TRO “until such time as the court resolves [plaintiff]’s pending motion for a preliminary injunction”).

The Court makes the following findings of fact and conclusions of law:

1. On May 17, 2024, the Court issued a Temporary Restraining Order enjoining Defendants from manufacturing, using, offering to sell, or selling within the United States, or importing into the United States without a license from Regeneron any product that is the subject of BLA No. 761274. Dkt. No. 776 at 3.
2. The Temporary Restraining Order will expire on May 31, 2024 if not extended. Dkt. No. 776 at 3-4.
3. Plaintiff’s Motion for a Permanent Injunction has been fully briefed and is pending before the Court. Dkt. Nos. 708-3; 722-1; 747-2.
4. Under the circumstances, there is good cause to extend the Temporary Restraining Order for an additional fourteen days. The myriad issues presented by the permanent injunction motion, coupled with the Court’s schedule, may prevent its adjudication before the expiration of the Temporary Restraining Order by the end of the month.
5. For the reasons detailed in the Court’s initial grant of the Temporary Restraining Order, (1) Plaintiff has previously succeeded on the merits of its infringement claims; (2) Plaintiff is likely to suffer irreparable harm if Defendants were to launch their product in the absence of temporary injunctive relief, only to be later permanently enjoined; (3) the balance of hardships imposed by the temporary restraining order favors Plaintiff, not Defendants; and (4) the public interest favors temporarily restraining Defendants until the permanent injunction motion is decided. Dkt. No. 776 at 2-3. The Court therefore finds good cause to extend the Temporary

Restraining Order, so that the status quo is preserved until the adjudication of the permanent injunction motion.

It is therefore **ORDERED THAT:**

Pursuant to Federal Rule of Civil Procedure 65(b)(2), for good cause, the Temporary Restraining Order, Dkt. No. 776, is extended for fourteen days beyond its original expiration. Defendants and others encompassed by the Temporary Restraining Order shall continue to be temporarily restrained and enjoined according to the terms of the Temporary Restraining Order, Dkt. No. 776.

DATED: May 30, 2024



Hon. Thomas S. Kleeh, Chief Judge