

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ALNYLAM  
PHARMACEUTICALS, INC.,

Plaintiff,

v.

Civil Action No. 23-580-CFC

MODERNA, INC.,  
MODERNATX, INC., and  
MODERNA US, INC.,

Defendants.

---

**ORDER**

Whereas the parties stated in a letter filed on July 30, 2024:

The Court has previously heard extensive argument and received extensive evidence on the term “head group,” both in *Alnylam Pharmaceuticals, Inc. v. Moderna Inc.*, C.A. No. 22-cv-335 (CFC) (“the -335 Case”) and in *Alnylam Pharmaceuticals, Inc. v. Pfizer Inc.*, C.A. No. 22-cv-336 (CFC) (“Pfizer Case”). That argument and evidence includes multiple rounds of briefing and supporting evidence leading to three hearings on the “head group” term (August 9, 2023 in the -335 Case; January 4, 2024 and July 12, 2024 in the Pfizer Case). The parties agree that the record in the -335 Case and in the Pfizer Case on the “head group” term applies equally to this case. As a result, the parties are willing to rest on their briefing and on the arguments and evidence previously presented to the Court in the -335 Case and the Pfizer Case, unless the Court would like to hear additional argument on this term.

D.I. 71 at 2;

Whereas at the claim construction hearing in this case convened on August 15, 2024, I explained the reasons for my construction of other disputed claim terms;

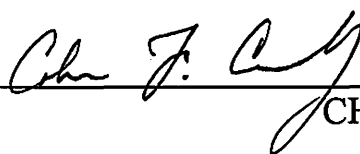
NOW THEREFORE, at Wilmington on this Tenth day of September in 2024, it is HEREBY ORDERED that:

1. For the reasons set forth in my September 9, 2024 Revised Memorandum Opinion in Civ. No. 22-336, D.I. 248, the term “head group” means “a group that must be either permanently positively charged or protonatable.”

2. For the reasons stated during the August 15, 2024 claim construction hearing, the term “ $R^{13}$  is a  $C_{10}$ - $C_{20}$  alkyl group that is branched at the  $\alpha$ -position relative to  $M^1$ ” means “ $R^{13}$  is an alkyl group that has 10 to 20 carbons in which the carbon atom next to  $M^1$  (1) is bound to at least three other carbon atoms, and (2) is not a ring atom of a cyclic group.”

3. For the reasons stated during the August 15, 2024 claim construction hearing, the term “the lipid compound contains a protonatable group such that the lipid compound is positively charged at a pH at or below 7.4” means “the lipid compound contains a protonatable group such that the lipid compound is positively

charged at a pH at or below 7.4 and is neutral above pH 7.4.”

  
\_\_\_\_\_  
CHIEF JUDGE