

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

**ARBUTUS BIOPHARMA CORPORATION
and GENEVANT SCIENCES GMBH,**

Plaintiffs,

v.

MODERNA, INC. and MODERNTX, INC.,

Defendants.

Case No. 1:22-cv-00252-JDW

ORDER

AND NOW, this 2nd day of February, 2026, for the reasons stated in the accompanying Memorandum, it is **ORDERED** as follows.

1. Defendants Moderna, Inc. and ModernaTX, Inc.'s Motion For Summary Judgment (D.I. 507) is **GRANTED IN PART** and **DENIED IN PART** as follows.

a. The Motion is **GRANTED** as to:

- i. Defendants' defense made pursuant to 28 U.S.C. § 1498(a) for the vaccines that went directly to United States Government employees; and
- ii. Defendants' claim that amendment-based estoppel bars Plaintiffs' infringement claims made pursuant to the doctrine of equivalents for U.S. Patent Nos. 8,492,359; 9,364,435; and 11,141,378; and

b. The Motion is **DENIED** in all other respects.

2. Defendants' Motion To Exclude Mr. Pitts' And Mr. Brill's Expert Reports (D.I. 510) is **GRANTED**.

3. Plaintiffs Arbutus Biopharma Corporation and Genevant Sciences GmbH's Cross Motion For Summary Judgment (D.I. 562) is **GRANTED IN PART** and **DENIED IN PART** as follows:

a. The Motion is **GRANTED** as to Defendants' Section 1498 defense for the vaccines that did not go directly to United Government employees; and

b. The Motion is **DENIED** in all other respects.

4. Plaintiffs' Motion To Exclude Certain Expert Testimony Of Dr. Rutherford, Dr. Vellturo, and Dr. Prud'homme (D.I. 558) is **GRANTED IN PART** and **DENIED IN PART** as follows:

a. The Motion is **GRANTED** as to Dr. Rutherford and Dr. Vellturo; and

b. The Motion is **DENIED** as to Dr. Prud'homme.

5. Defendants' Motion To Exclude Certain Expert Testimony Of Dr. Mitchell (D.I. 595) is **GRANTED IN PART** and **DENIED IN PART**, as follows:

a. The Motion is **GRANTED** as to Dr. Mitchell's opinions concerning Arbutus's fraudulent inducement theory regarding Moderna's C-100 Contract with the Government; and

- b. The Motion is **DENIED** as to Dr. Mitchell's opinions concerning prosecution history estoppel.

BY THE COURT:

/s/ Joshua D. Wolson

JOSHUA D. WOLSON, J.