

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

GENENTECH, INC. and CITY OF HOPE,

Plaintiffs,

v.

AMGEN INC.,

Defendant.

C.A. No. 18-924-CFC

PUBLIC VERSION

**EXHIBITS A AND B SUPPORT OF AMGEN INC.'S OPENING LETTER
IN ADVANCE OF MAY 16, 2019 DISCOVERY HEARING**

Dated: May 20, 2019

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EXHIBIT A

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

GENENTECH, INC. and CITY OF HOPE,)	
)	
Plaintiffs,)	C.A. No. 17-1407-GMS
)	C.A. No. 17-1471-GMS
v.)	
)	
AMGEN INC.,)	
)	
Defendant.)	
)	

**PLAINTIFFS' FIRST SUPPLEMENTAL
OBJECTIONS AND RESPONSES TO AMGEN INC.'S FIRST SET OF
REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS (NOS. 1-35)**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and D. Del. LR 26.1 and 26.2, Plaintiffs Genentech, Inc. and City of Hope (collectively, "Plaintiffs"), by undersigned counsel, hereby object and respond as follows to Defendant's First Set of Requests for Production. These objections and responses incorporate Plaintiffs' March 12, 2018 Objections and Responses and are intended as a supplement.

GENERAL OBJECTIONS & OBJECTIONS TO DEFINITIONS

Pursuant to D. Del. LR 26.1(b), Plaintiffs provide the following General Objections and Objections to Definitions. These objections form a part of, and are hereby incorporated into, the response to each and every request set forth below. Nothing in those responses, including any failure to recite a specific objection in response to a particular request, should be construed as a waiver of any of these General Objections and Objections to Definitions.

1. Conflicts with Rules. Plaintiffs object to each request, definition, and instruction generally to the extent that they purport to impose obligations or responsibilities different from or in excess of those imposed by the Federal Rules of Civil Procedure and the Local Rules of the

United States District Court for the District of Delaware. Plaintiffs will interpret and respond to the Requests in good faith and in accordance with the Rules.

2. Privileged Information. Plaintiffs object to any part of the Requests calling for the production of information or documents that are privileged or otherwise protected from discovery pursuant to the attorney-client privilege, the accountant-client privilege, the common-interest privilege, the work product doctrine, or any other applicable privilege, protection, or immunity. Plaintiffs do not agree to produce such information or documents protected from discovery and will withhold or redact information or documents on that basis. If protected information or documents are inadvertently produced in response to the Requests, the production of such information or documents shall not constitute a waiver of Plaintiffs' rights to assert the applicability of any privilege, protection, or immunity to the information or documents, to seek the return of such material, or to object to the use of such material at any stage of the action or in any other action or proceeding.

Plaintiffs will comply with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Delaware in identifying privileged material, but Plaintiffs specifically object to identifying documents on a document privilege log that were generated subsequent to October 6, 2017 (the filing of *Genentech, Inc. and City of Hope v. Amgen Inc.*, No. 1:17-cv-01407-GMS (D. Del.)) or which reflect communications between Plaintiffs and their trial counsel (Williams & Connolly, Durie Tangri, or McCarter & English) given the irrelevance of such documents and the burden of preparing such a privilege log.

3. Confidential Information Generally. Plaintiffs object to the Requests to the extent that they call for production of trade secret, proprietary, personal, commercially sensitive, third-party confidential, or other confidential information. Plaintiffs will only produce confidential

information, including trade secret, proprietary, personal, commercially sensitive, third-party confidential, or other confidential information, that is responsive, relevant, and not otherwise protected, pursuant to the governing Protective Order and/or D. Del. LR 26.2. Plaintiffs may withhold documents on this basis (as described, for example, in General Objection No. 6), and Plaintiffs may redact from documents that they have otherwise agreed to produce information concerning research or development efforts concerning any molecules other than anti-VEGF antibodies.

4. HIPAA Information. Plaintiffs object to the Requests to the extent that they call for production of individually identifiable health information, including without limitation information that would identify patients and persons associated with reporting adverse events involving human drugs and research subjects. *See* 21 C.F.R. §§ 20.63, 314.430. Plaintiffs are withholding such documents or information on this basis and will redact such information from any documents that they produce in this action.

5. Personal Information Implicating Foreign Privacy/Data Protection Laws. Plaintiffs may, in response to certain of Amgen's requests, produce documents from custodians or non-custodial sources located outside the United States. Foreign privacy laws, over which Plaintiffs have no control, may have a substantial impact on the nature and extent of documents that Plaintiffs can produce from such sources. Plaintiffs object to the Requests to the extent that they call for production of information from any jurisdiction outside that United States that (i) pertains to a specific individual that can be linked to that individual; or (ii) is reasonably believed by Plaintiffs to contain information about or pertaining to a specific individual that can be linked to that individual and that reveals race, ethnic origin, sexual orientation, political opinions, religious or philosophical beliefs, trade union or political party membership or that concerns an

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