

**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. 1:18-cv-00924-CFC

PUBLIC VERSION FILED:
JULY 29, 2019

**GENENTECH'S FED. R. CIV. P. 62(d) MOTION FOR AN INJUNCTION
PENDING APPEAL, OR, IN THE ALTERNATIVE, A 14-DAY INJUNCTION
TO ENABLE GENENTECH TO PURSUE AN EXPEDITED MOTION FOR AN
INJUNCTION PENDING APPEAL BEFORE THE FEDERAL CIRCUIT
PURSUANT TO FED. R. APP. P. 8**

Plaintiff Genentech, Inc., by and through their undersigned counsel, respectfully seek an Order enjoining defendant Amgen, Inc. from commercially launching, marketing or selling its trastuzumab biosimilar product, Kanjinti, pending appeal of the Court's July 18, 2019 Order (D.I. 300), or, in the alternative, a 14-day injunction to enable Genentech to pursue an expedited motion for an injunction pending appeal before the Federal Circuit pursuant to Fed. R. App. P. 8.

The grounds for Plaintiffs' motion are set forth in Genentech's Opening Brief in Support of Its Fed. R. Civ. P. R. 62(d) Motion for an Injunction Pending Appeal, or, in the Alternative, a 14-Day Injunction to Enable Genentech to Pursue an Expedited Motion for an Injunction Pending Appeal Before the Federal Circuit Pursuant to Fed. R. App. P. 8., as well as its previously-filed briefs in support of its emergency motions for temporary restraining order and preliminary injunction (D.I. 275, 292), Declarations in Support, and accompanying exhibits. A Proposed Order is filed contemporaneously herewith.

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Dated: July 19, 2019

Respectfully Submitted,

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C.A. No. 1:18-cv-00924-CFC

PUBLIC VERSION FILED:
JULY 29, 2019

**[PROPOSED] ORDER GRANTING GENENTECH'S EMERGENCY MOTION FOR
PRELIMINARY INJUNCTION**

IT IS HEREBY ORDERED on this _____ day of _____, 2019, that:

1. Genentech's motion for an injunction pending resolution of Genentech's appeal of the Court's Order denying Genentech's motions for preliminary and temporary injunctive relief is granted.

OR

Genentech's motion for a 14-day injunction to allow it to pursue an expedited motion for injunctive relief before the Court of Appeals is granted. The injunction shall expire in fourteen (14) days from this Order or when the Court of Appeals grants or denies injunctive relief, whichever happens first.

2. Accordingly, defendant Amgen Inc., its affiliates, subsidiaries, and each of its officers, agents, servants and employees, and those acting in privity or in concert with them, is prohibited from commercially marketing Kanjinti within the United States, until this Court renders a decision on the merits of Genentech's patent infringement claims following trial, and until the Court of Appeals for the Federal Circuit has adjudicated any appeal of that decision.

3. Amgen shall provide notice of this Order within three (3) days to any affiliates, subsidiaries, and each of their officers, agents, servants and employees, and those acting in privity or in concert with them that is involved in any effort to market Kanjinti commercially within the United States.

4. Genentech shall post an unsecured bond in the amount of \$_____ (_____ dollars) within seven (7) days of the entry of this Order. Genentech shall act as its own surety for such bond.

The Honorable Colm F. Connolly
United States District Judge

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

GENENTECH, INC. and CITY OF HOPE,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 18-924-CFC
	)	
AMGEN, INC.,	)	
	)	
Defendant.	)	
	)	

AVERMENT OF COUNSEL

The undersigned counsel hereby certifies that counsel for Plaintiffs conferred with counsel for Defendant, including verbally in one or more teleconferences involving Delaware counsel for all parties, regarding the relief sought in the foregoing motion and that counsel were unable to reach agreement on the relief sought.

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