

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GENENTECH, INC.,

Plaintiff,

v.

AMGEN INC.,

Defendant.

Case No. 18-924-CFC

PUBLIC VERSION FILED: October 21, 2019

**PLAINTIFF'S MOTION FOR A PROTECTIVE ORDER WITH RESPECT TO THE
DEPOSITION OF DR. BRIAN LEYLAND-JONES, TO COMPEL THE PRODUCTION
OF DOCUMENTS PURSUANT TO AMGEN'S PRIVILEGE WAIVER, AND TO
MODIFY THE DISCOVERY LIMITS TO PROVIDE DEPOSITION TIME FOR
DAMAGES WITNESSES**

Plaintiff Genentech, Inc., by and through its undersigned counsel, respectfully moves for an order in the form attached hereto: (1) precluding the deposition of Dr. Brian Leyland-Jones, (2) compelling Amgen to produce documents pursuant to the Court's privilege waiver order; and (3) modifying the discovery limits to provide separate deposition time for damages witnesses. The grounds for Plaintiff's motion are set forth in the supporting letter brief filed contemporaneously herewith. Plaintiff will present its motion during a conference with the Court on October 16, 2019.

DATED : October 4, 2019

Of Counsel:

Daralyn J. Durie
Adam R. Brausa
DURIE TANGRI LLP
217 Leidesdorff St.
San Francisco, CA 94111
(415) 362-6666

William F. Lee
Lisa J. Pirozzolo
Emily R. Whelan
Kevin Prussia
Andrew J. Danford
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109
(627) 526-6000

Robert J. Gunther Jr.
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 230-8800

MCCARTER & ENGLISH, LLP

/s/ Daniel M. Silver

Michael P. Kelly (#2295)
Daniel M. Silver (#4758)
Alexandra M. Joyce (#6423)
Renaissance Centre
405 North King Street, 8th Floor
Wilmington, DE 19801
(302) 984-6300
mkelly@mccarter.com
dsilver@mccarter.com
ajoyce@mccarter.com

Attorneys for Genentech, Inc.

**IN THE UNITED STATES DISTRICT COURT
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GENENTECH, INC.,

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v.

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Defendant.

Case No. 18-924-CFC

**[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR A PROTECTIVE
ORDER WITH RESPECT TO THE DEPOSITION OF DR. BRIAN LEYLAND-JONES,
TO COMPEL THE PRODUCTION OF DOCUMENTS PURSUANT TO AMGEN'S
PRIVILEGE WAIVER, AND TO MODIFY THE DISCOVERY LIMITS TO PROVIDE
DEPOSITION TIME FOR DAMAGES WITNESSES**

Upon consideration of Plaintiff Genentech, Inc.'s Motion for a Protective Order with Respect to the Deposition of Dr. Brian Leyland-Jones, to Compel the Production of Documents Pursuant to Amgen's Privilege Waiver, and to Modify the Discovery Limits to Provide Deposition Time for Damages Witnesses,

IT IS HEREBY ORDERED that:

1. The Court enters a protective order preventing Amgen from proceeding with the deposition of Dr. Brian Leyland-Jones;
2. Amgen shall within three days of this order produce to Genentech the results of any tests performed by Amgen employees relating to infringement of U.S. Patent No. 8,574,869 ("the '869 patent") or efforts by Amgen to alter Amgen's manufacturing process to avoid Genentech's allegations of infringement of the '869 patent. In view of Amgen's privilege waiver

(see D.I. 259), Amgen may not withhold from production any such results of tests performed by Amgen employees on the basis of attorney-client privilege or attorney work product protection; and

3. The deposition time limits set forth in D.I. 135 ¶ 3(a) are hereby modified to provide separate time for depositions of damages witnesses. Each side shall have up to 30 hours for depositions of fact witnesses on damages issues.

SO ORDERED this __ day of _____, 2019.

The Honorable Colm F. Connolly
United States District Judge

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GENENTECH, INC.

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v.

AMGEN INC.,

Defendant.

C.A. No. 18-924-CFC

AVERMENT OF COUNSEL

Pursuant to District of Delaware Local Rule 7.1.1, the undersigned counsel hereby certifies that counsel for Plaintiff conferred with counsel for Defendant, including verbally in one or more teleconferences involving Delaware counsel for all parties, and a reasonable effort was made to reach an agreement with the Defendant on the matters set forth in this motion.

Dated: October 4, 2019

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Daralyn J. Durie
Adam R. Brausa
DURIE TANGRI LLP
217 Leidesdorff St.
San Francisco, CA 94111
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William F. Lee
Lisa J. Pirozzolo
Emily R. Whelan
Kevin Prussia
Andrew J. Danford
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109
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/s/ Daniel M. Silver
Michael P. Kelly (#2295)
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Alexandra M. Joyce (#6423)
Renaissance Centre
405 North King Street, 8th Floor
Wilmington, DE 19801
(302) 984-6300
mkelly@mccarter.com
dsilver@mccarter.com
ajoyce@mccarter.com

Attorneys for Genentech, Inc.

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