

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

GENENTECH, INC.,
Plaintiff-Appellant

CITY OF HOPE,
Plaintiff

v.

**IMMUNEX RHODE ISLAND CORPORATION,
AMGEN INC.,**
Defendants-Appellees

2019-2155

Appeal from the United States District Court for the
District of Delaware in No. 1:19-cv-00602-CFC, Judge
Colm F. Connolly.

ON MOTION

Before WALLACH, CHEN, and HUGHES, *Circuit Judges*.
PER CURIAM.

O R D E R

Genentech, Inc. moves for an injunction pending appeal. Appellees oppose. Genentech also moves to exceed the confidential marking limits for its reply in support of that motion.

Rule 8(a)(2) of the Federal Rules of Appellate Procedure authorizes this court to grant an injunction pending appeal. Similar to a motion for a stay, our determination is governed by four factors: (1) whether the movant has made a strong showing of likelihood of success on the merits; (2) whether the movant will be irreparably injured absent an injunction; (3) whether issuance of the injunction will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). Without prejudicing the ultimate disposition of this case, we conclude that Genentech has not established that an injunction pending appeal is warranted here under these factors.

Accordingly,

IT IS ORDERED THAT:

(1) The motion for an injunction pending appeal is denied.

(2) ECF No. 32 is granted. The reply is accepted for filing.

FOR THE COURT

August 16, 2019
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

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