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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

SANOFI-AVENTIS U.S. LLC and REGENERON PHARMACEUTICALS, INC.,

Plaintiffs,

vs.

GENENTECH, INC., and CITY OF HOPE,

Defendants.

GENENTECH, INC., and CITY OF HOPE,

Counterclaim Plaintiffs,

vs.

SANOFI-AVENTIS U.S. LLC and REGENERON PHARMACEUTICALS, INC.,

Counterclaim Defendants.

Case No. 2:15-cv-05685-GW-AGR

PLAINTIFFS' NOTICE IN RESPONSE TO DEFENDANTS' COVENANT REGARDING PRALUENT

Summary Judgment Hearing
Date: August 18, 2016
Ctrm: 10, Spring Street Floor
Judge: George H. Wu

WHEREAS Sanofi-Aventis U.S. LLC and Regeneron Pharmaceuticals, Inc. (collectively, "Plaintiffs"), filed an action against Genentech, Inc. and City of Hope (collectively, "Defendants") seeking declaratory judgment of invalidity and noninfringement of U.S. Patent No. 7,923,221 ("the Cabilly III Patent") on July 27, 2015 (Dkt. No. 1.);

WHEREAS Defendants filed a Counterclaim against Plaintiffs on September 17, 2015 alleging infringement of one or more claims of the Cabilly III Patent based on the manufacture, distribution, and sale of the Praluent® (alirocumab) monoclonal antibody product ("Praluent") (Dkt. No. 30.);

WHEREAS Defendants served their Disclosure of Asserted Claims and Infringement Contentions on November 20, 2015 and Final Infringement Contentions on March 11, 2016 in which Defendants asserted claims 25, 26, 28, 31, 32, 33, 34, 38, 39, 43 and 47 of the Cabilly III patent;

WHEREAS Plaintiffs served their Invalidity Contentions on December 4, 2015 and Final Invalidity Contentions on March 18, 2016 in which Plaintiffs set forth invalidity arguments against claims 25, 26, 28, 31, 32, 33, 34, 38, 39, 43 and 47 of the Cabilly III patent;

WHEREAS Plaintiffs filed motions for Summary Judgment of Invalidity of Claims 25, 26, 28, 31, 32, 33, 34, 38, 39, 43 and 47 of the Cabilly III patent on July 7, 2016 (Dkt. Nos. 139, 142.);

WHEREAS Defendants notified the Court of their intention to pursue claim 34, and filed a Covenant Not to Sue for the remaining claims on July 8, 2016 ("Defendants' Covenant"). (Dkt. No. 147.) This Covenant Not to Sue extends only to Praluent and products "not more than insubstantially different from Praluent."

NOW, THEREFORE, in light of the foregoing, Plaintiffs respectfully notify the Court that they do not believe Defendants' Covenant removes the controversy between the Parties with respect to the challenged claims, and respectfully request adjudication on the claims set forth in Plaintiffs' motions for Summary Judgment of

Invalidity. If the Court is not inclined to adjudicate all challenged claims set forth in Plaintiffs' Motions, Plaintiffs respectfully request an opportunity to file a brief memorandum of points and authorities setting forth its position.

Dated: July 11, 2016

MAYER BROWN LLP

By: */s/ Elizabeth Mann*
Elizabeth Mann

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CERTIFICATE OF SERVICE

I certify that all counsel of record is being served on July 11, 2016 with a copy of this document via the Court's CM/ECF system.

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