

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

GENENTECH, INC. and CITY OF HOPE,	)	
	)	
Plaintiffs and Counterclaims	)	
Defendants,	)	C.A. No. 17-1672-GMS
	)	
v.	)	
	)	
PFIZER INC.	)	
	)	
Defendant and Counterclaim	)	
Plaintiff.	)	
	)	

**STIPULATION AND [PROPOSED] ORDER OF DISMISSAL WITH RESPECT TO  
CERTAIN ASSERTED PATENTS**

IT IS HEREBY STIPULATED AND AGREED by the Parties, subject to the approval of the Court, that all claims for infringement of U.S. Patent Nos. 6,417,335, 6,489,447, 6,586,206, 6,620,918, 6,716,602, 7,390,660, 7,449,184, 7,501,122, 8,044,017, 8,460,895, 8,512,983, 8,633,302, 8,691,232, 8,710,196, 8,771,988, 8,822,655, 9,428,766, 9,487,809, 9,493,744, and 9,714,293 (collectively, “the Dismissed Patents”) against Pfizer, Inc. (“Pfizer”) are DISMISSED WITH PREJUDICE and all counterclaims for judgment of non-infringement and invalidity of the Patents are DISMISSED WITHOUT PREJUDICE.

This dismissal is made without prejudice to Genentech Inc. and City of Hope’s (collectively, “Plaintiffs”) ability to assert a Dismissed Patent if (1) Pfizer makes a change to its drug product, PF-05280014 (the subject of Pfizer’s BLA No. 761081), the proposed label for its drug product, or the manufacturing processes disclosed in Pfizer’s BLA No. 761081, and that change materially alters the infringement analysis with respect to any claim of that Dismissed

Patent; or (2) Plaintiffs subsequently discover information not previously provided which establishes that the information provided by Pfizer pursuant to 42 U.S.C. §§ 262(l)(2) or factual representation made by Pfizer in the statement provided according to 262(l)(3)(B) was inaccurate or incomplete when provided, and the newly-discovered information materially alters the infringement analysis with respect to any claim of that Dismissed Patent. In the event that Plaintiffs reassert a Dismissed Patent under either of those circumstances, the parties reserve their rights with respect to the application of the limitation on remedies provided in 35 U.S.C. § 271(e)(6)(B) with respect to that Dismissed Patent. Each Party is to bear its own costs, expenses, and attorneys' fees associated with this action with respect to the Dismissed Patents.

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Dated: March 23, 2018

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
United States District Judge