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. 18-924-CFC [redacted] PUBLIC VERSION FILED: July 25, 2019

REPLY DECLARATION OF CHRISTY OLIGER IN SUPPORT OF GENENTECH'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

1. My name is Christy Oliger. I am employed by Genentech, Inc. as Senior Vice President of BioOncology, in which role I manage the company's United States commercial operations for its oncology products. I submitted a declaration dated July 10, 2019 in support of Genentech's emergency motion for a temporary restraining order and a preliminary injunction.

2. I make this declaration to address certain points in Amgen's Opposition to Genentech's motion.

I. FORECASTED IMPACT OF AMGEN'S BIOSIMILAR TRASTUZUMAB ON HERCEPTIN REVENUES

3. I understand that in its Opposition, Amgen asserts that "[redacted]" and that as support for this assertion, Amgen relies in part on my deposition testimony. Amgen's assertion is mistaken in several respects.

4. During my deposition, I was asked about a document titled "[redacted]," labeled GNE-HER_002948730-70 ("[redacted]").[1] In particular, I was asked about the page labeled GNE-HER_002948733, which refers to a forecasted loss of Herceptin revenue in 2019 of [redacted].[2]

5. For the reasons explained in my original Declaration, forecasting the potential impact of biosimilar trastuzumab on Herceptin revenues and market share, as well as those of other Genentech products, involves numerous complex variables and a high degree of uncertainty.[3] Accordingly, Genentech's forecasts regarding the potential impact of biosimilar trastuzumab are essentially "best guesses."

6. [redacted]

[1] This document was cited as Exhibit 52 in my Declaration in Support of Genentech's Motion for Preliminary Injunction ("original Declaration").

[2] Ex. 241 [Oliger Dep. Tr.] at 107-11.

[3] Original Declaration § V.

[4] Original Declaration ¶¶ 36-37, 44, 46.

[5] Ex. 52 at GNE-HER_002948751.

[redacted]

7. [redacted] Instead, Genentech has not increased the price of Herceptin at all in 2019, [redacted]

8. Amgen's suggestion that the [redacted] figure shown in the [redacted] represents a definitive expectation of quantifiable harm is also mistaken. In addition to the fact that Genentech's forecasts are simply highly variable best guesses, Amgen's introduction of Kanjinti will have far-reaching effects that will are likely to change the dynamics of the entire oncology biologics market. Accordingly, as discussed in my original Declaration, [redacted]

9. Amgen also misunderstands my deposition testimony regarding the forecast of the impact of biosimilar trastuzumab in 2019 being [redacted]. [redacted] Amgen, a traditional innovator with extensive biologics experience and well-established relationships with clinics and payers.

II. POTENTIAL IMPACT OF AMGEN'S BIOSIMILAR TRASTUZUMAB ON OTHER GENENTECH PRODUCTS

10. I understand that Amgen also asserts that the potential impact of Kanjinti on other Genentech products, such as Perjeta, Kadcyla, Avastin, and Rituxan, should be disregarded because [redacted]

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[6] Original Declaration ¶¶ 41, 47-48, 50, 53-54, 76.

[7] Ex. 52 at GNE-HER_002948753.

[8] Original Declaration §§ V-VII.

[9] During my deposition, Amgen's counsel did not ask me when I expected biosimilar trastuzumab competition to begin.

11. In my original Declaration, I discussed several reasons that biosimilar trastuzumab is likely to adversely affect Genentech's sales of those other products.[10] [redacted]

12. These considerations do not lend themselves to forecasting, especially in light of their interrelated nature, the numerous variables involved in forecasting discussed in my original Declaration, and Genentech's lack of information regarding the price at which Amgen will offer Kanjinti.[11] Nevertheless, Amgen's suggestion that [redacted][12] and for the reasons discussed in my original Declaration, the launch of biosimilar trastuzumab—especially by Amgen, in light of its relationships and experience—is likely to have a pronounced adverse effect on these other Genentech products.[13]

III. POTENTIAL IMPACT OF AMGEN'S BIOSIMILAR TRASTUZUMAB ON GENENTECH SPENDING

13. I understand that Amgen also asserts that the launch of Kanjinti will not force Genentech to reduce staff, or to reduce research and development ("R&D") expenditures. [redacted]

14. [redacted]

IV. POTENTIAL IMPACT OF AMGEN'S BIOSIMILAR TRASTUZUMAB ON GENENTECH'S REPUTATION AND GOODWILL

15. I understand that Amgen also asserts that the launch of Kanjinti will not adversely affect Genentech's reputation and goodwill [redacted]

[10] Original Declaration §§ III, VI.B.

[11] Original Declaration § V.

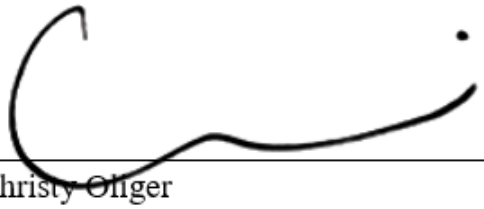
[12] Original Declaration ¶¶ 59, 61 (citing Ex. 53 at GNE-HER_001378974-75).

[13] Original Declaration §§ VI.B.

[redacted]

16. [redacted]

Date: July 16, 2019



Christy Oliger

[14] Original Declaration ¶ 67.

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