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The Honorable Mary Kay Vyskocil
United States District Court
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *Acuitas Therapeutics Inc. v. Genevant Sciences GmbH and
Arbutus Biopharma Corp.*, Case No. 22-cv-02229-MKV

Dear Judge Vyskocil:

I write on behalf of Plaintiff Acuitas Therapeutics Inc. (“Acuitas”) to request a status conference at the Court’s convenience. The Defendants, Genevant Sciences GmbH and Arbutus Biopharma Corp. (together, “Arbutus”), have authorized me to inform the Court that they take no position regarding Acuitas’s request for a conference.

By way of background: Acuitas’s customers BioNTech and Pfizer sell the Pfizer-BioNTech COVID-19 vaccine called Comirnaty®, which uses lipid nanoparticles (“LNPs”) from Acuitas to deliver messenger RNA to the patient. After Arbutus claimed to have invented LNP technology used in BioNTech and Pfizer’s vaccine, and threatened BioNTech and Pfizer with patent infringement in letters identifying various Arbutus patents, Acuitas brought this action against Arbutus on March 18, 2022 [Docket Entry 1]. Acuitas seeks a declaratory judgment that Arbutus’s patents are invalid and/or not infringed by the Pfizer-BioNTech vaccine. The Court gave Acuitas the opportunity to amend its complaint [Docket Entry 42], and Defendants then moved to dismiss that First Amended Complaint, the motion having been fully briefed on November 16, 2022. [Docket Entries 44, 47, and 55.]

Acuitas now requests a conference because on April 4, 2023—well after briefing was completed on Acuitas’s motion—Arbutus carried through on its threat to sue Pfizer and BioNTech for patent infringement. Rather than suing in this Court, however, Arbutus sued Pfizer and BioNTech in New Jersey. *See Arbutus Biopharma Corp. et al. v. Pfizer Inc. et al.*, No. 2:23-cv-01876-ZNQ (D.N.J.); *see also* Docket Entries 63, 69, and 70 in this case. Arbutus has thus created a second lawsuit addressing the



validity and infringement of patents at issue here. The schedule in the later-filed New Jersey lawsuit lags behind this case, with Pfizer and BioNTech's time to answer, move, or otherwise respond to the New Jersey complaint being July 10, 2023. *See* Docket Entry 10 in the New Jersey case.

In light of these developments, Acuitas respectfully requests a status conference with the Court to discuss the pending motion to dismiss, the NJ Complaint, and the forum for resolution of the parties' disputes.

Respectfully submitted,


/ Nicholas Groombridge /

Nicholas Groombridge

CC: All Counsel of Record (via ECF)

The parties are HEREBY ORDERED to appear for a Status Conference on June 27, 2023 at 11:30 AM. SO ORDERED.

Date: 5/16/2023
New York, New York


Mary Kay Vyskocil
United States District Judge