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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NOVARTIS PHARMA AG, et al.,)
)
)
Plaintiffs,) CASE NO. 20-CV-690
)
vs.)
)
REGENERON PHARMACEUTICALS, INC.,)
)
Defendant.)
_____)

**TRANSCRIPT OF PROCEEDINGS
BEFORE THE HON. CHRISTIAN F. HUMMEL
WEDNESDAY, AUGUST 18, 2021
ALBANY, NEW YORK**

FOR THE PLAINTIFFS:

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JACQUELINE STROFFOLINO, RPR

20-CV-690

1 (Open court.)

2 THE CLERK: Today is Wednesday, August 18, 2021,
3 10:31 a.m. The case is Novartis Pharma AG et al. versus
4 Regeneron Pharmaceuticals, Inc., docket No. 20-CV-690. May we
5 have appearances for the record.

6 MR. MCGUIRE: George McGuire for Bond, Schoeneck &
7 King, Your Honor, for plaintiffs.

8 THE COURT: Good morning, Mr. McGuire.

9 MS. HOLLAND: Good morning, Your Honor. Elizabeth
10 Holland of Goodwin Procter for Novartis plaintiffs.

11 THE COURT: Good morning, Ms. Holland.

12 MS. GRAMMEL: Good morning, Your Honor. Molly
13 Grammel, Goodwin Procter for Novartis as well.

14 THE COURT: Good morning, Ms. Grammel.

15 MR. NASH: Your Honor, Doug Nash from Barclay Damon
16 for Regeneron.

17 THE COURT: Good morning, Mr. Nash.

18 MR. DESAI: Good morning, Your Honor. Anish Desai
19 here on behalf of the Regeneron.

20 THE COURT: Good morning, Mr. Desai.

21 Are there additional counsel appearing by phone this
22 morning?

23 MS. HOLLAND: No, Your Honor. We have clients on the
24 phone who are counsel.

25 THE COURT: That's fine. Do you wish them to note

JACQUELINE STROFFOLINO, RPR

20-CV-690

1 their appearance, or are you happy with the three of you?

2 MS. HOLLAND: I'm happy, but I'm happy to introduce
3 them as well. I believe we have Cynthia Lopez, Peter Waibel,
4 and Michelle Kitchen from Novartis legal department.

5 THE COURT: Good morning, counselors.

6 In addition, folks -- let me back up. I'm Judge
7 Hummel. I'm one of the magistrate judges. In addition, we had
8 a call from a member of the public who indicated they may wish
9 to call in this morning. I think my courtroom deputy,
10 Ms. Burttt, advised you of that. Because we're conducting this
11 in open court and on the record, it's a public proceeding. So
12 the public has the right to appear.

13 Secondly, as you know, you may know, here in the
14 Northern District, we've adopted a mask requirement in the
15 public airways, but not in here. You're welcome to keep your
16 masks off. I presume if you've taken your mask off, you're
17 fully vaccinated. I'm fully vaccinated to the extent you wanted
18 to know that. So it's not my intention to wear a mask. If at
19 some point someone feels uncomfortable, they're welcome to do
20 so.

21 I've had an opportunity to review the civil case
22 management plan which was submitted with respect to this matter,
23 which is docket No. 73, which was 24 pages in length. I've also
24 reviewed the exhibits which are annexed to that document, which
25 appear among other places at docket No. 73-1 and 73-2, 73-1

JACQUELINE STROFFOLINO, RPR

20-CV-690

1 being a comparison of the proposed case schedules set forth for
2 the plaintiff Novartis and defendant Regeneron with respect to
3 this matter.

4 Before we get into the specifics of the order, let me
5 just advise you that it is not my intention to redo discovery
6 that was done in the Southern District of New York or may have
7 been done somewhere else. To the extent that discovery is done,
8 has been done, I assume you folks will take steps to make
9 certain that it can be used here. So to the extent that people
10 were deposed in the ITC proceeding or in the Southern District,
11 we're not going to reinvent the wheel or redo all of that
12 discovery. Having discussed this matter with another member of
13 the judiciary, we want to move this matter forward in an
14 expeditious but fair fashion.

15 Having said that, I'm going to go through docket
16 No. 73-1, which contains the proposed schedules. And then to
17 the extent I wish to hear from someone with respect to a
18 particular issue, I'll give each attorney an opportunity or each
19 side the opportunity to be heard with respect to that.

20 If you go down to docket No. 73-1, beginning with
21 patentee infringement contentions, there seems to be agreement
22 those will be filed by September 1 of 2021.

23 You then go to the civil case management plan, which
24 is docket No. 73. With respect to joinder of parties and
25 amendment of pleadings, I'm going to direct that any such

JACQUELINE STROFFOLINO, RPR

20-CV-690

1 applications for joinder of parties be made by September 15 of
2 2021. With respect to the next item, accused noninfringement,
3 invalidity, unenforceability contentions, I'm going to direct
4 those be filed by September 22 of 2021.

5 And I should note we will do an order containing all
6 of these matters when it's done, but I wanted to give you these
7 today.

8 The next dispute involves the necessity or the need
9 for claims construction in this matter. We're not going to redo
10 claims construction which may have been done in the ITC or in
11 the Southern District. However, Regeneron contends that there
12 are additional claims construction which needs to be done.

13 I guess I'll hear from Regeneron first and give
14 someone from Novartis a chance to be heard. Who would like to
15 speak on behalf of the issue of the need for additional claims
16 construction?

17 MR. DESAI: Your Honor, I'll speak to that.

18 THE COURT: Go ahead, Counselor.

19 MR. DESAI: So in the ITC case, there was a claim
20 construction hearing, and then -- but unfortunately because the
21 way the ITC works, it does not allow us I believe to skip claim
22 construction here in the district court. And the reason being
23 the ITC proceedings are conducted as bench trials, and it is
24 frequently the case --

25 THE REPORTER: Can you slow down, please.

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