

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG DIVISION**

REGENERON PHARMACEUTICALS, INC.,

Plaintiff,

v.

MYLAN PHARMACEUTICALS INC.,

Defendant.

Case No. 1:22-cv-00061-TSK

JURY TRIAL DEMANDED

**REGENERON'S MOTION FOR
SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, Regeneron hereby moves the Court for partial summary judgment of nonobviousness on Regeneron's asserted U.S. Patent 11,084,865 (the "'865 patent"). The obviousness arguments of Mylan and its expert, Dr. Barrett Rabinow, rely on the teachings of U.S. Patents 8,110,546, 10,406,226, and international patent application WO2006/088650, which are Regeneron's own patents and patent applications and thus may not be considered in an obviousness analysis under the plain terms of 35 U.S.C. § 103(c).

Regeneron thus requests that the Court grant summary judgment of nonobviousness of the '865 patent under each of Mylan's § 103 defenses that rely on the teachings of those references. The grounds for this motion are set forth more fully in the accompanying memorandum.

Respectfully submitted,

Date: April 20, 2023

CAREY DOUGLAS KESSLER & RUBY, PLLC

Of Counsel:

David I. Berl (admitted *PHV*)
Ellen E. Oberwetter (admitted *PHV*)

/s/ Steven R. Ruby

Steven R. Ruby (WVSB No. 10752)
David R. Pogue (WVSB No. 10806)
707 Virginia Street East
901 Chase Tower (25301)

Thomas S. Fletcher (admitted *PHV*)
Andrew V. Trask (admitted *PHV*)
Teagan J. Gregory (admitted *PHV*)
Shaun P. Mahaffy (admitted *PHV*)
Sean M. Douglass (admitted *PHV*)
Kathryn S. Kayali (admitted *PHV*)
Arthur J. Argall III (admitted *PHV*)
Adam Pan (admitted *PHV*)
Nicholas Jordan (admitted *PHV*)
Haylee Bernal Anderson (admitted *PHV*)
Renee Griffin (admitted *PHV*)
Rebecca Carter (admitted *PHV*)
WILLIAMS & CONNOLLY LLP
680 Maine Avenue, SW
Washington, DC 20024
(202) 434-5000
dberl@wc.com
eoberwetter@wc.com
tfletcher@wc.com
atrask@wc.com
tgregory@wc.com
smahaffy@wc.com
sdouglass@wc.com
kkayali@wc.com
aargall@wc.com
apan@wc.com
njordan@wc.com
handerson@wc.com
rgriffin@wc.com
rebeccacarter@wc.com

P.O. Box 913
Charleston, West Virginia 25323
(304) 345-1234
sruby@cdkrlaw.com
drpogue@cdkrlaw.com

Andrew E. Goldsmith (admitted *PHV*)
Evan T. Leo (admitted *PHV*)
Jacob E. Hartman (admitted *PHV*)
Mary Charlotte Y. Carroll (admitted *PHV*)
Sven E. Henningson (admitted *PHV*)
KELLOGG, HANSEN, TODD, FIGEL &
FREDERICK, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
TEL: (202) 326-7900
agoldsmith@kellogghansen.com
eleo@kellogghansen.com
jhartman@kellogghansen.com

mcarroll@kellogghansen.com
shenningson@kellogghansen.com

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2023, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF system. Counsel of record for all parties will be served by the Court's CM/ECF system.

/s/ Steven R. Ruby

Steven R. Ruby (WVSB No. 10752)