

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

IN RE: AFLIBERCEPT PATENT  
LITIGATION

MDL No. 1:24-MD-3103-TSK

**This Document Relates to All Cases**

**REGENERON PHARMACEUTICALS, INC.’S REPLY IN RESPONSE TO  
DEFENDANT SAMSUNG BIOEPIS CO., LTD.’S SUBMISSION REGARDING  
TEMPORARY RESTRAINING ORDERS**

To avoid any confusion regarding its position, Regeneron submits this reply in response to Samsung Bioepis’s submission regarding Regeneron’s potential motions for temporary restraining orders.<sup>1</sup> Bioepis effectively asks the Court (at 1) to decide Regeneron’s pending motion for preliminary injunction. Regeneron is happy for the Court to do so without the need for TRO practice, if Bioepis agrees to remain off the market until the Court resolves the existing injunction motion or if the Court’s schedule allows a decision before May 18, 2024. That is the date on which FDA may approve biosimilar copies of Eylea<sup>®</sup> and, absent agreement or relief from the Court, enable Bioepis and the other Defendants to launch their products. Regeneron is available for oral argument on the injunction motions between now and then at the Court’s convenience.

If the Court is not able to resolve the injunction motions by then, TROs would maintain the status quo for a limited time until the Court can do so. Regeneron will move for TROs on May 14, 2024 or whenever and in whatever form the Court directs. However, Regeneron respectfully notes that TROs are limited to 14 days and only “good cause” or consent extensions, *see* Fed. R. Civ. P. 65(b)(2), because they are issued *without* hearing from the defendant, *see ClearOne Advantage, LLC v. Kersen*, 2024 WL 69918, at \*2 (D. Md. Jan. 5, 2024) (quoting *Hoechst Diafoil*

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<sup>1</sup> *See* Dkt. 39, No. 24-MD-3103; Dkt. 209, No. 23-CV-94; Dkt. 191, No. 23-CV-106.

*Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 422 (4th Cir. 1999)).

Alternately, if Defendants were to agree to remain off the market until the Court resolves the existing injunction motions, even if that resolution is after May 18, 2024, then Regeneron will forego filing TROs.

Date: May 7, 2024

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2024, I electronically transmitted the foregoing with the Court. Counsel of record for all parties will be served by electronic mail.

/s/ Steven R. Ruby

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