

# EXHIBIT 5

## Kayali, Kathryn

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**From:** Robert Oakes <RMO@FR.com>  
**Sent:** Thursday, April 4, 2024 9:08 PM  
**To:** Argall, Arthur; Louis Fogel; Shaun Van Horn; Rae Crisler; Autumn Wu; SERVICE - Formycon Team  
**Cc:** Eylea; Eylea.Biosimilars@weil.com; REGENERONPATENT@lists.kellogghansen.com; Janette Riebe  
**Subject:** RE: Regeneron v. Formycon, C.A. 23-97 - Service of Formycon AG's Redacted Documents (March 21, 2024 Filing)

Arthur,

The version of Dr. Boyle's Formycon declaration that Regeneron attempted to introduce at Dr. Boyle's deposition in the Samsung Bioepis case today is marked Confidential on its face. As your email acknowledges, Regeneron asked for redacted versions of Formycon's expert declarations that it could share with your client. The redacted version of Dr. Boyle's declaration we provided on May 27 redacts the OCEO information, and can be shared with your client. At no point did Regeneron ask to use Formycon's expert declarations in other cases, and Regeneron had no legitimate reason to attempt to use Dr. Boyle's Formycon declaration in the Samsung Bioepis case. This is particularly true because Regeneron will depose Dr. Boyle in the Formycon case tomorrow, and will be able to question Dr. Boyle on the opinions he provided in the Formycon case at that deposition. If Regeneron wanted to challenge the designation of Dr. Boyle's redacted declaration as Confidential, it should have followed the procedure to do that. D99, ¶11. Regeneron chose instead to spring the use of the redacted declaration in a deposition Formycon's counsel was not even a part of, and shouldn't be surprised that we objected to that tactic.

Per your request of this afternoon, Formycon will provide a further redacted version of Dr. Boyle's declaration that redacts Confidential and OCEO information. You have had the May 27 redacted version for over a week, given your late request for an additional version and the commitments of our team, I can't commit to providing that by tomorrow. Regardless, there is absolutely no prejudice to Regeneron's ability to depose Dr. Boyle on these issues tomorrow. Regeneron is free to introduce Dr. Boyle's unredacted Formycon declaration at tomorrow's deposition. If Regeneron wants its in-house counsel to be present, Regeneron can question Dr. Boyle on the May 27 redacted version of his declaration which redacts OCEO information.

Regards,

Bob

**Robert M. Oakes** :: Principal :: Fish & Richardson P.C.  
222 Delaware Avenue 17th Floor, P.O. Box 1114, Wilmington, DE 19899  
302 778 8477 direct :: [oakes@fr.com](mailto:oakes@fr.com)

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**From:** Argall, Arthur <aargall@wc.com>  
**Sent:** Thursday, April 04, 2024 2:05 PM  
**To:** Robert Oakes <RMO@FR.com>; Louis Fogel <fogel@fr.com>; Shaun Van Horn <vanhorn@fr.com>; Rae Crisler <crisler@fr.com>; Autumn Wu <qwu@fr.com>; SERVICE - Formycon Team <SERVICE-Formycon\_Team@fr.com>  
**Cc:** Eylea@wc.com; Eylea.Biosimilars@weil.com; REGENERONPATENT@lists.kellogghansen.com; Janette Riebe

<riebe@fr.com>

**Subject:** RE: Regeneron v. Formycon, C.A. 23-97 - Service of Formycon AG's Redacted Documents (March 21, 2024 Filing)

[This email originated outside of F&R.]

Counsel,

On Monday, March 25, Regeneron requested that Formycon “provide a version of the declarations and briefs filed on March 21, 2024 by Formycon with Formycon’s OCEO information removed, and a separate version with Formycon’s confidential information removed, that we are able to share with our client by this Wednesday, March 27.” Email from R. Krawetz (Mar. 25, 2024, 4:55 PM). On Wednesday, March 27, Formycon then provided a redacted version of Dr. Boyle’s declaration and stated below that Dr. Boyle’s declaration “did not include confidential information that was not also OCEO information, thus there is only one redacted copy” of it. During the deposition today of Dr. Boyle in the Regeneron v. Samsung Bioepis case, counsel for Formycon (present in the office at the time) reversed position and now appears to maintain that there is additional confidential information in Dr. Boyle’s declaration that is not OCEO information. Please immediately provide a redacted version of Dr. Boyle’s Formycon declaration with all confidential and OCEO information redacted by 6 PM this evening so that Regeneron may use it at tomorrow’s deposition.

Formycon’s reversal is highly prejudicial to Regeneron’s ability to prepare for and conduct its deposition of Dr. Boyle, and Regeneron reserves all rights to further relief from the Court.

Best,

**Arthur J. Argall**

**Associate | Williams & Connolly LLP**

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**From:** Janette Riebe <[riebe@fr.com](mailto:riebe@fr.com)>

**Sent:** Wednesday, March 27, 2024 5:24 PM

**To:** Service - Regeneron Opposing Counsel <[Service-Regeneron\\_Opposing\\_Counsel@fr.com](mailto:Service-Regeneron_Opposing_Counsel@fr.com)>

**Cc:** SERVICE - Formycon Team <[SERVICE-Formycon\\_Team@fr.com](mailto:SERVICE-Formycon_Team@fr.com)>

**Subject:** Regeneron v. Formycon, C.A. 23-97 - Service of Formycon AG's Redacted Documents (March 21, 2024 Filing)

Counsel:

Below please find a link for accessing the following materials, all of which were filed under seal on March 21, 2024, with Formycon’s OCEO information redacted. These files did not include confidential information that was not also OCEO information, thus there is only one redacted copy of each document. A password for the zipped file will be forwarded via a separate email. Let me know if you have any difficulties accessing the documents.

- REDACTED Defendant Formycon AG’s Response in Opposition to Regeneron’s Motion for Preliminary Injunction (Dkt. 155-3);

- REDACTED Declaration of Laird Forrest, Ph.D., with REDACTED Exhibits 14-16 (Dkt. 156–156-2);
- REDACTED Declaration of Arun Sharma (Dkt. 158);
- REDACTED Declaration of Denis M. Boyle, Ph.D., with REDACTED Exhibits 4, 7-9 (Dkt. 159-1); and
- REDACTED Declaration of Niall Barron, Ph.D., with REDACTED Exhibits 6-7, 9-11 (Dkt. 159-6–159-8).

The following filed documents did not contain Formycon OCEO nor Confidential information, and thus are not provided at the link below:

- Motion to Partially Strike the Opening Declaration of Dr. Ranjit Singh Atwal (Dkt. 154);
- Memorandum in Support of Their Motion to Partially Strike the Opening Declaration of Dr. Ranjit Singh Atwal (Dkt. 154-2), with Exhibit 1 (Dkt. 154-3);
- Declaration of Peter M. Tessier, Ph.D., with Exhibits 1-56 (Dkt. 157-1); and
- Responsive Declaration of Dr. Holly Prentice, Ph.D., with Exhibits 1-61 (Dkt. 160, 161, 162).

<https://send.fr.com/link/pvAZ1jA7gnQXzBbl7DM3C>

Best regards,

**Janette D. Riebe**

Litigation Paralegal ■ Fish & Richardson P.C.

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