

Case: 24-2351 Document: 37 Page: 1 Filed: 10/22/2024

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

REGENERON PHARMACEUTICALS, INC.,
Plaintiff-Appellant

v.

**MYLAN PHARMACEUTICALS INC., AMGEN USA,
INC., BIOCON BIOLOGICS INC., CELLTRION,
INC., FORMYCON AG, AMGEN INC., SAMSUNG
BIOEPIS CO., LTD., SANDOZ INC.,**
Defendants-Appellees

2024-2351

Appeal from the United States District Court for the Northern District of West Virginia in Nos. 1:22-cv-00061-TSK-JPM, 1:23-cv-00089-TSK-JPM, 1:23-cv-00094-TSK-JPM, 1:23-cv-00097-TSK-JPM, 1:23-cv-00106-TSK-JPM, 1:24-cv-00039-TSK-JPM, 1:24-cv-00053-TSK, and 1:24-md-03103-TSK-JPM, Chief Judge Thomas S. Kleeh.

ON MOTION

Before PROST, BRYSON, and HUGHES, *Circuit Judges*.

PER CURIAM.

O R D E R

Regeneron Pharmaceuticals, Inc. moves to enjoin Amgen, Inc. from “launching its generic version of Regeneron’s Eylea® product” pending the appeal. ECF No. 6 at 7. Amgen opposes. Regeneron also moves to expedite briefing and argument in this appeal.

Rule 8(a)(2) of the Federal Rules of Appellate Procedure authorizes this court to grant an injunction pending appeal. We consider four factors: “(1) whether the [movant] is likely to succeed on the merits, (2) whether it will suffer irreparable injury without a[n injunction], (3) whether the [injunction] will substantially injure the other parties interested in the proceedings, and (4) where the public interest lies.” *Ohio v. Env’t Prot. Agency*, 144 S. Ct. 2040, 2052 (2024) (citing *Nken v. Holder*, 556 U.S. 418, 434 (2009)); see also *Standard Havens Prods., Inc. v. Gencor Indus., Inc.*, 897 F.2d 511, 512–13 (Fed. Cir. 1990).

Without prejudicing the ultimate disposition of the issues on appeal, we conclude that Regeneron has not established that an injunction pending appeal is warranted. The court will, however, expedite briefing and place the case on the January 2025 oral argument calendar.

Accordingly,

IT IS ORDERED THAT:

(1) Regeneron’s motion for an injunction is denied, and the court’s temporary injunction entered on September 25, 2024, is lifted.

(2) Regeneron’s motion to expedite is granted to the extent that Amgen’s response brief is due no later than November 4, 2024; Regeneron’s reply brief and the joint appendix are due no later than November 13, 2024; no extensions of time will be granted; and the appeal will be

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placed on the January 2025 oral argument calendar.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

October 22, 2024
Date

cc: United States District Court for the Northern District
of West Virginia