

United States District Court,
E.D. Texas, Marshall Division.

REPLIGEN CORPORATION and The Regents of the University of Michigan,
Plaintiffs.

v.

BRISTOL-MYERS SQUIBB COMPANY,
Defendant.

Civil Action No. 2:06-CV-00004 (TJW)

Oct. 2, 2007.

Samuel Franklin Baxter, McKool Smith, Marshall, TX, Ahmed J. Davis, Fish & Richardson PC, Washington, DC, Fred H. Nemeth, Repligen Corporation, Waltham, MA, Gary Scott Kitchen, Kristi Jean Thomas, McKool Smith, Dallas, TX, Gregory A. Madera, Ramon K. Tabtiang, Robert E. Hillman, Stephen A. Marshall, Tawen Chang, Fish & Richardson PC, Boston, MA, John C. Adkisson, Fish & Richardson, Minneapolis, MN, John Franklin Garvish, II, Mckool Smith, Austin, TX, Juanita R. Brooks, Fish & Richardson, San Diego, CA, Limin Zheng, Fish & Richardson, Redwood City, CA, for Plaintiffs.

Christopher P. Borello, Dana Lau, Filko Prugo, Gregory B Sephton, Hassen A. Sayeed, Robert L. Baechtold, Robert S. Schwartz, Scott K. Reed, Fitzpatrick Cella Harper & Scinto, New York, NY, Jack Wesley Hill, Otis W. Carroll, Jr., Ireland Carroll & Kelley, Tyler, TX, for Defendant.

CLAIM CONSTRUCTION ORDER

CHARLES EVERINGHAM, IV, United States Magistrate Judge.

After considering the submissions and the arguments of counsel, the Court issues the following order concerning the claim construction issues:

The parties agree to the constructions listed below:

Claim Term	Agreed Construction
" <i>A method of treating</i> " (claim 3)	A method that can reasonably be expected to alleviate a patient's symptoms
" <i>a patient having rheumatoid arthritis</i> " (claim 3)	A patient who has rheumatoid arthritis, which is a specific autoimmune disease generally characterized by inflammation and stiffening of the joints.
" <i>in an amount effective</i> " (claim 3)	A quantity sufficient to achieve the desired result.
" <i>immunosuppressant</i> " (claim 7)	An agent that can suppress an immune response.

The Court determines that the following construction is appropriate for the sole term in dispute:

Claim Term	Court's Construction
" <i>to suppress the immune response</i> " (claim 3)	To down-modulate the immune response

The Court adopts the above listed constructions.

E.D.Tex.,2007.

Repligen Corp. v. Bristol-Myers Squibb Co.

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