

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PLEXXIKON INC.,
Plaintiff,
v.
NOVARTIS PHARMACEUTICALS
CORPORATION,
Defendant.

Case No.17-cv-04405-HSG (EDL)

**ORDER ON DISCOVERY DISPUTE
REGARDING LAB NOTEBOOKS**

Re: Dkt. Nos. 104, 105

At the hearing on the discovery dispute over Plaintiff Plexxikon Inc.’s requests for documents relating to the “core molecular structure” of the compounds claimed in the patents-in-suit, Plaintiff stated that it sought the production of lab notebooks regarding encorafenib. Encorafenib is a drug that Defendant Novartis Pharmaceuticals Corporation was developing but later divested in connection with its acquisition of GlaxoSmithKline’s oncology portfolio in 2015. The Court ordered the parties to file supplemental briefs on the relevance of the lab notebooks, which they filed on December 5, 2018.

Based on the supplemental briefs, it appears that encorafenib contains the same “core molecular structure” as the claimed compound – that is, a sulfonamide with its nitrogen attached to a halogenated phenyl. The only argument Defendant raises to rebut this conclusion is based on the declaration of Dr. Phil S. Baran, who opined that “encorafenib . . . cannot fall within the scope of the claims of the ‘640 or ‘539 patent at least because the phenyl ring of encorafenib contains an impermissible chlorine substituent at a position on the phenyl ring that must be a hydrogen in the ‘640 and ‘539 patent claims . . .” Baran Decl., ¶ 15. This evidence only supports a finding that encorafenib does not infringe the patents, not that the core molecular structure is absent. Since encorafenib contains the core molecular structure, the lab notebooks are relevant to at least

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

damages for the same reasons set forth in the Court’s November 30, 2018 order.

Defendant has not established that producing the lab notebooks will be burdensome, much less result in a burden that is out of proportion to the needs of the case. Accordingly, Defendant is ordered to produce the lab notebooks regarding encorafenib within fourteen days of this order.

IT IS SO ORDERED.

Dated: December 11, 2018


ELIZABETH D. LAPORTE
United States Magistrate Judge