

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMGEN INC.,et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civ. No. 14-1317-SLR
)	(consolidated)
SANOFI, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

At Wilmington this 7th day of March, 2016, having reviewed the papers submitted in connection with various evidentiary issues related to the liability phase of the trial;

IT IS ORDERED that:

1. **Plaintiffs’ evidentiary issue 4.** According to defendants, evidentiary issue 4 is moot, because defendants “will not rely on internal Merck documents or 1D05 at trial.” (D.I. 268 at 1)

2. **Plaintiffs’ evidentiary issue 13.** In this regard, post-priority date documents that disclose the state of the pre-priority date art may be used as evidence of the state of the art. Because the Kwon reference itself did not exist on the priority date, however, it cannot be used as evidence of a motivation. A subtle distinction, but one that I stand

by, at least without knowing exactly how defendants intend to use the Kwon reference.


United States District Judge