

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMGEN INC. and
AMGEN MANUFACTURING, LIMITED,

Plaintiffs,

vs.

HOSPIRA, INC.,

Defendant.

C.A. No. 15-839 (RGA)

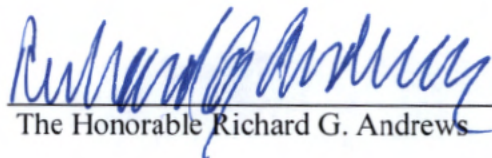
~~PROPOSED~~ ORDER ON CLAIM CONSTRUCTION

This 22 day of September, 2017, IT IS HEREBY ORDERED:

1. With respect to the '298 patent:
 - a. The term “an isoform” means a group of molecules that has a single isoelectric focusing point and a specific number of sialic acids per molecule, and appears as a single band on an isoelectric focusing gel (an example of which is shown in Figure 1 of the '298 patent).
 - b. The term “an isolated . . . isoform” in Claim 1 means one and only one isoform, that is, a group of erythropoietin molecules all with the same isoelectric focusing point and the same number of sialic acids per molecule and which appear as a single band on an isoelectric focusing gel, separated from erythropoietin molecules having a different isoelectric focusing point and number of sialic acids per molecule.
 - c. The term “erythropoietin molecules having a predetermined number of sialic acids per molecule selected from the group consisting of 1-14” in Claim 24

essentially describes an isoform, and Claim 24 claims methods of preparing one or more erythropoietin isoforms.

- d. The term “selectively eluting” in Claim 24 shall be given its plain and ordinary meaning to a person of ordinary skill in the art in 1990.
 - e. Claim 27 is an independent claim, and the term “mixture of two or more erythropoietin isoforms of Claim 1” in Claim 27 means a mixture of two or more of the isolated erythropoietin isoforms of Claim 1. Claim 27 does not require the individual isoforms of Claim 1 to be separately prepared prior to making the mixture.
2. With respect to the '349 patent:
- a. The term “DNA sequences which control transcription” means DNA sequences that initiate and may regulate the processes of transcription.
 - b. The term “transcription control DNA sequences” means DNA sequences that initiate and may regulate the processes of transcription.


The Honorable Richard G. Andrews