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