

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ARIAD PHARMACEUTICALS, INC.,
MASSACHUSETTS INSTITUTE OF
TECHNOLOGY, THE PRESIDENT AND
FELLOWS OF HARVARD COLLEGE, and
THE WHITEHEAD INSTITUTE FOR
BIOMEDICAL RESEARCH,

Plaintiffs,

v.

AMGEN INC., IMMUNEX
CORPORATION, AMGEN USA INC.,
AMGEN MANUFACTURING LIMITED,
IMMUNEX RHODE ISLAND
CORPORATION, and WYETH,

Defendants.

C.A. No. _____

COMPLAINT AND DEMAND FOR JURY TRIAL

ARIAD Pharmaceuticals, Inc. (“ARIAD”), along with the Massachusetts Institute of Technology (“MIT”), the President and Fellows of Harvard College (“Harvard”), and the Whitehead Institute (“Whitehead”), (collectively, the “Institutions”), by and through their undersigned counsel, for their claims for relief against Amgen Inc., Immunex Corporation, Amgen USA Inc., Amgen Manufacturing Limited, and Immunex Rhode Island Corporation (collectively, the “Amgen Entities”) and Wyeth, allege as follows:

JURISDICTION AND VENUE

1. This is a complaint for patent infringement arising under the United States Patent Act, 35 U.S.C. §§ 100 *et seq.*, including §§ 271 and 281.
2. This Court has subject matter jurisdiction over this complaint under 28 U.S.C. §§ 1331 and 1338(a).

3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

THE PARTIES

4. ARIAD is a Delaware corporation with its principal place of business in Cambridge, Massachusetts.

5. Whitehead is Delaware corporation with its principal place of business in Cambridge, Massachusetts.

6. Harvard is a Massachusetts corporation with its principal place of business in Cambridge, Massachusetts.

7. MIT is a Massachusetts corporation with its principal place of business in Cambridge, Massachusetts.

8. ARIAD and the Institutions are informed and believe, and thereon allege, that Amgen Inc. is a Delaware corporation with its principal place of business in Thousand Oaks, California.

9. ARIAD and the Institutions are informed and believe, and thereon allege, that Immunex Corporation is a Washington corporation with its principal place of business in Thousand Oaks, California.

10. ARIAD and the Institutions are informed and believe, and thereon allege, that Amgen USA Inc. is a Delaware corporation with its principal place of business in Thousand Oaks, California.

11. ARIAD and the Institutions are informed and believe, and thereon allege, that Amgen Manufacturing Limited is a Bermuda corporation with its principal place of business in Juncos, Puerto Rico.

12. ARIAD and the Institutions are informed and believe, and thereon allege, that Immunex Rhode Island Corporation is a Delaware corporation with its principal place of business in West Greenwich, Rhode Island.

13. ARIAD and the Institutions are informed and believe, and thereon allege, that Wyeth is a Delaware corporation with its principal place of business in Madison, New Jersey.

PATENT IN SUIT

14. United States Patent No. 6,410,516 (the "'516 patent"), entitled "Nuclear Factors Associated With Transcriptional Regulation," was duly and legally issued on June 25, 2002. A copy of the '516 patent is attached hereto as Exhibit A.

15. The Institutions are the assignees of the '516 patent. ARIAD is the licensee of certain exclusive rights in the '516 patent.

CLAIM FOR RELIEF

(Patent Infringement)

16. ARIAD and the Institutions incorporate herein by this reference paragraphs 1 through 15 of their complaint as if set forth in full.

17. ARIAD and the Institutions are informed and believe, and thereon allege, that in violation of 35 U.S.C. § 271, the Amgen Entities and Wyeth have been and are currently directly infringing, contributorily infringing, and/or inducing infringement of the '516 patent by, among other things, making, using, offering to sell, selling and/or importing Enbrel® (etanercept) without authority or license from ARIAD and the Institutions.

18. ARIAD and the Institutions are informed and believe, and thereon allege, that in violation of 35 U.S.C. § 271, Amgen Inc., Amgen USA Inc., and Amgen Manufacturing Limited have been and are currently directly infringing, contributorily infringing, and/or inducing infringement of the '516 patent by, among other things, making, using, offering to sell, selling and/or importing Kineret® (anakinra) without authority or license from ARIAD and the Institutions.

19. ARIAD and the Institutions are informed and believe, and thereon allege, that the infringement of the '516 patent by the Amgen Entities and Wyeth has been and continues to be willful.

WHEREFORE, ARIAD and the Institutions respectfully request the following relief:

A. The entry of judgment that the Amgen Entities and Wyeth infringe the '516 patent, and that their infringement is willful;

B. An award of damages resulting from the infringement of the '516 patent by the Amgen Entities and Wyeth in an amount to be determined at trial, and the trebling of such damages due to the willful nature of their infringement;

C. An award of pre-judgment and post-judgment interest;

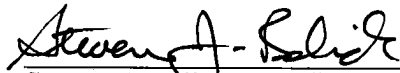
D. A declaration that this case is exceptional pursuant to 35 U.S.C. § 285 and an award of attorneys' fees and costs; and

E. Such other and further relief, including equitable relief, as this Court deems just and proper.

DEMAND FOR JURY TRIAL

ARIAD and the Institutions hereby respectfully request a trial by jury on all issues triable of right by a jury.

ASHBY & GEDDES



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