

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG DIVISION**

IN RE: AFLIBERCEPT PATENT LITIGATION

MDL No.: 1:24-md-3103-TSK

THIS DOCUMENT RELATES TO:

REGENERON PHARMACEUTICALS, INC.,

Plaintiff,

v.

CELLTRION, INC.,

Defendant.

Civil Action Nos.: 1:23-cv-89-TSK &
1:24-cv-53-TSK

**CELLTRION, INC.’S MOTION FOR A STATUS CONFERENCE, AND NOTICE OF
PARTIAL ADOPTION AND JOINDER OF SAMSUNG BIOEPIS, CO., LTD’S
SCHEDULING MOTION [ECF No. 478]**¹

Celltrion, Inc. (“Celltrion”) hereby partially joins in Samsung Bioepis Co., Ltd.’s (“SB”) *Motion for Entry of Scheduling Order Pursuant to Rule 16 or, in the Alternative, a Status Conference* [ECF No. 478] (the “Scheduling Motion”) and moves this Court to hold a status conference in furtherance of entering a schedule leading to the trial of these actions.²

¹ ECF Numbers in this motion reference the MDL docket, identified as case number 1:24-md-3103-TSK.

² In joining SB’s Scheduling Motion, Celltrion incorporates and reiterates SB’s discussion of the ongoing harm caused by the imposition of the preliminary injunction prior to a merits trial. *See* ECF No. 478 at 1-2. Celltrion similarly suffers such continuing harm.

There appears to be agreement among all the MDL parties — *including Regeneron* — that such a conference is appropriate. *See* ECF No. 478 at 2 (SB request for status conference); ECF No. 483 at 4, 6 (Regeneron agreement to seeking a status conference and “request[ing] that the Court . . . convene a status conference”); ECF No. 484 at 2 (Formycon’s request for status conference). The only question is when to hold it. Although Regeneron contends that such a status conference should occur following the resolution of the pending appeals before the Federal Circuit, there is no reason for such delay.

As noted by SB, litigation concerning Aflibercept has been pending in this District for over a year. *See e.g.* Case No. 1:23-cv-89-TSK, ECF No. 1 (Complaint filed November 8, 2023). In May 2024, the Court last held a case management conference for the MDL actions, and shortly thereafter pursuant to Court Order, the parties submitted competing proposed schedules and case management plans, all long before the Court’s issuance of orders granting Regeneron’s preliminary injunctions in multiple MDL cases. *See* ECF Nos. 112, 154, 188, 194, 247, 248. In the months that followed, Celltrion and other defendants submitted updated proposed schedules, but no trial date has been set in either these actions or in the others that are part of the MDL cases. With no schedule, these actions are effectively left in purgatory, a *de facto* stay that has paused progress.

The Federal Circuit has now heard argument in all of the appeals from the Court’s preliminary injunction rulings concerning members of the MDL. It has already issued decisions in two of the five appeals, and decisions in the remaining three are expected soon.

Holding a status conference prior to the issuance of the remaining appellate decisions will help to streamline these actions to an efficient resolution. There is work that will need to be done regardless of the outcome of the appeals, such as discovery demands, document production and

review, and inventor and other employee depositions. Most importantly, Regeneron must narrow the number of patents it is asserting so that the aforementioned tasks can be completed without waste of time and resources from all parties and the Court.

All of this can only be accomplished by the Court first holding a scheduling conference to enter an appropriate timeline. Even when related appeals are pending, this District has acknowledged the benefit of status conferences in “continu[ing] to move forward to resolution, rather than [] delay.” *Tucker v. Thomas*, No. 5:10CV31, 2012 WL 254141, at *2 (N.D.W. Va. Jan. 27, 2012) (Stamp, J.) (declining to stay an action and setting a status conference to establish schedule when related bankruptcy appeal was still pending). As this District has described, because it is difficult to determine when appeals may be resolved, “an open-ended stay would strongly frustrate the interests of efficient resolution of this case.” *Id.* at *2.

In complicated cases such as these, there is no shortage of work to be done or issues to be addressed in anticipation of trying the claims on their merits. The first step toward accomplishing those ends would be to hold a status conference to discuss the necessary discovery, issues that will need to be prepared for adjudication, and contours of the schedule to be set.

Accordingly, Celltrion requests that this Court hold such a conference in short order so that these actions may be expeditiously litigated, adjudicated, and removed from the docket.

Date: February 28, 2025

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on the 28th day of February 2025, service of the foregoing document was made to counsel of record by CM/ECF filing.

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