

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

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|-------------------------------|---|-----------------------|
| GENENTECH, INC. and |) | |
| INTERMUNE, INC., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | C.A. No. 19-202 (RGA) |
| |) | |
| SANDOZ, INC., |) | |
| SANDOZ INTERNATIONAL GMBH and |) | |
| SANDOZ AG |) | |
| |) | |
| Defendants. |) | |

**STIPULATION AND ~~PROPOSED~~ ORDER DISMISSING
WITHOUT PREJUDICE DEFENDANTS SANDOZ INTERNATIONAL GMBH
AND SANDOZ AG AND AMENDING CAPTION**

This stipulation is made by and between Plaintiffs Genentech, Inc. and InterMune, Inc. (collectively, "Plaintiffs") and Defendants Sandoz, Inc., Sandoz International GmbH and Sandoz AG (collectively, "Defendants").

WHEREAS, Plaintiffs filed suit against Defendants in the above-captioned case (the "Action");

WHEREAS, Plaintiffs and Defendants ("the Parties") have agreed to dismiss Sandoz International GmbH ("Sandoz Int'l") and Sandoz AG from the Action as set forth herein;

WHEREAS, Defendants represent that Sandoz Int'l and Sandoz AG were not involved in the preparation or filing of ANDA No. 212560 ("Sandoz ANDA").

NOW THEREFORE, the Parties, by and through their respective undersigned counsel in this Action, and subject to each of the following conditions and the approval of the Court, stipulate and agree as follows:

1. Sandoz Int'l and Sandoz AG agree to be bound by any judgment, order, or

decision including any injunction, rendered in this Action (including appeals) as to Sandoz, Inc. as if Sandoz Int'l and Sandoz AG were named defendants. Sandoz Int'l and Sandoz AG agree that they will not contest personal jurisdiction in the District of Delaware for purposes of enforcing any such judgment, order or decision. In addition, Sandoz Int'l and Sandoz AG, agree to be bound by the provisions of 35 U.S.C. § 315 to the same extent as Sandoz, Inc. is bound, including, but not limited to all restrictions with respect to institution of an inter partes review proceeding and estoppel provisions, as if Sandoz Int'l and Sandoz AG, having both been served with the Complaint [D.I. 1] in this Action, continued to be parties to this Action.

2. Defendants agree that they will not assert any defense under Federal Rule of Civil Procedure 19(a) or otherwise assert that either Sandoz Int'l or Sandoz AG is a necessary party to this Action as a defense or objection to liability. Defendants will not assert the non-joinder of Sandoz Int'l and Sandoz AG to this action as a defense or objection to any remedy Plaintiffs may seek in this action, including, if applicable, damages (whether reasonable royalty or lost profits damages) sought by or awarded to Plaintiffs.

3. Sandoz, Inc. agrees that it will not contest personal jurisdiction, subject matter jurisdiction, or venue in this Action.

4. Plaintiffs agree to dismiss without prejudice the claims in this Action as to Sandoz Int'l and Sandoz AG pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

5. The Court retains jurisdiction over Sandoz Int'l and Sandoz AG for the limited purpose of enforcing the terms of this stipulation. The Action will continue against Sandoz, Inc. Accordingly, the case caption for the Action shall be amended to remove Sandoz Int'l and Sandoz AG and the new caption shall read as follows:

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Attorney for Defendants

Dated: May 1, 2019

IT IS HEREBY ORDERED this 1 day of May, 2019.



The Honorable Richard G. Andrews
United States District Judge