

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

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

Plaintiffs,

v.

C. A. No. 06-259-MPT

ARIAD PHARMACEUTICALS, INC., and
THE WHITEHEAD INSTITUTE FOR
BIOMEDICAL RESEARCH,

Defendants.

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

Counterclaim Plaintiffs,

v.

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

Counterclaim Defendants.

AMENDED ORDER

The court's September 19, 2008 Memorandum Order (D.I. 727) is modified to

correctly identify ARIAD as the movant and Amgen as the entity asserting invalidity and unenforceability challenges as follows:¹

It is ORDERED AND ADJUDGED that:

- I. ARIAD's motion for partial dismissal for lack of subject matter jurisdiction (D.I. 575) is granted in part and denied in part.
 - A. ARIAD's motion to dismiss Amgen's invalidity challenges to the unasserted claims of the '516 patent is **GRANTED**.
 - B. ARIAD's motion to dismiss Amgen's unenforceability defenses is **DENIED**.
- II. ARIAD's motion for partial summary judgment on inequitable conduct (D.I. 573) is granted in part and denied in part.
 - A. ARIAD's motion for summary judgment on inequitable conduct with regard to submissions related to Kadesch is **GRANTED**.
 - B. ARIAD's motion for summary judgment on inequitable conduct with regard to submissions related to Verma is **DENIED**.

September 26, 2008
Wilmington, Delaware


UNITED STATES MAGISTRATE JUDGE

¹ The substance, reasoning, and rulings recited in D.I. 727 are otherwise unaffected by this Amended Order.