

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

CIPLA LTD. and CIPLA USA, INC.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	C.A. No. 19-44-LPS
	:	
AMGEN INC., and TEVA PHARMACEUTICALS	:	
USA, INC.,	:	
	:	
Defendants.	:	

MEMORANDUM ORDER

At Wilmington this **28th** day of **February, 2019**:

Having reviewed the parties' recent letters (D.I. 77, 79, 81, 83), and in light of Cipla's filing of its First Amended Complaint (D.I. 73),

IT IS HEREBY ORDERED that:

1. The "speedy hearing" scheduled for March 8 at 11:00 a.m. is **CANCELLED** and **CONVERTED** to an in-court status conference on **March 8 at 12:00 p.m.** The Court will **not** be hearing argument or attempting to resolve at and around the March 8 hearing the issues it had previously identified as appropriate for the highly accelerated resolution Cipla has requested. (See D.I. 52) Instead, the status conference will be an opportunity for the parties and the Court to discuss how this matter should now proceed in light of recent developments, including the issues to be addressed in the forthcoming letters ordered below.

2. **ALL OTHER DATES AND DEADLINES PREVIOUSLY ORDERED BY THE COURT ARE VACATED.** For the avoidance of doubt, this includes any further briefing relating to the issues that were to be addressed at the March 8 hearing. The Court will not

address disputes, if any, relating to experts until after the March 8 status conference.

3. The parties, including new party Teva Pharmaceuticals USA, Inc. (“Teva”), shall file letter briefs, not to exceed five (5) and three (3) pages respectively, on the issues noted below, no later than **March 5 and 6**:

(a) whether and when a new motion to dismiss directed to the First Amended Complaint will be filed and briefed;

(b) the impact, if any, of the addition of Teva as a party to the proper analysis of whether this case remains suitable for a “speedy hearing” and, if so, on what issue(s);

(c) the impact, if any, of the matters addressed in Cipla’s most recent letter (D.I. 83);

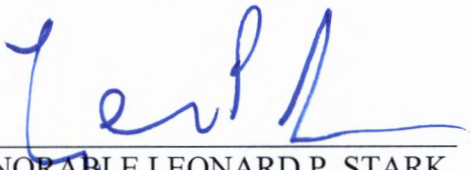
(d) when, if at all, the Court should hold a “speedy hearing” and/or hear oral argument on any forthcoming motion to dismiss;

(e) whether the Court should refer this case to a Magistrate Judge for the purpose of exploring alternative dispute resolution; and

(f) why, if at all, this case should not now, for reasons including the addition of Teva as a party, be deemed “related” to 16-853-MSG and reassigned to Judge Goldberg.

4. The Court is proceeding as outlined here for several reasons. Despite extensive, repeated discussions with the parties, and careful consideration of the many competing interests (including those of the parties, the Court, the public, potential intervenors, and other nonparties), Cipla did not (to the Court’s recollection) ever suggest it might amend its complaint, thereby mooting a motion to dismiss for which a hearing had already been scheduled and on which the Court had begun preparing, which adds a new party and additional allegations. The Court agrees

with Amgen that Cipla's filing of its amended complaint makes plain that the disputes the Court had previously identified for resolution at a "speedy hearing" on March 8 – a date barely two months into this highly complex case, involving antitrust, patent misuse, breach of contract, and other claims – are no longer appropriate for consideration on the highly unusual, extremely expedited schedule the Court had set. To proceed on the schedule the Court had previously been persuaded to impose would now be highly and unfairly prejudicial to Amgen and, particularly in light of the "mooting" of the motion to dismiss (which the Court assumes will be renewed), result in an unwarranted, inefficient expenditure of the Court's scarce judicial resources.



HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT COURT