UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

AbCellera Biologics Inc. v. Bruker Cellular Analysis, Inc.

AbCellera · No. 20-cv-08624-JST (VKD) · Decided April 15, 2025

SUMMARY

The court resolves a discovery dispute concerning Bruker Cellular Analysis, Inc.'s demand for unredacted NIH and NIAID agreements and royalty reports relevant to AbCellera's damages theories. The court orders production of the 2020 NIH/NIAID Agreement, the 2019 NIAID Research Collaboration Agreement, and AbCellera's royalty reports, but finds that the other agreements listed in the 2020 agreement are not shown to be discoverable.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Virginia K. DeMarchi
JURISDICTION	United States District Court for the Northern District of California
DECIDED	April 15, 2025
DOCKET	20-cv-08624-JST (VKD)
DISPOSITION	other
PROCEDURAL POSTURE	Order resolving a discovery dispute in a patent-infringement action concerning production of agreements and royalty reports relevant to plaintiffs' damages theories.
STANDARD OF REVIEW	Discovery relevance and proportionality principles; the court evaluated whether the requested materials were relevant to plaintiffs' damages theories and whether the asserted grounds for discovery were speculative.
PRECEDENTIAL VALUE	unpublished district court discovery order

TOPICS

discovery dispute · patent infringement · damages · intellectual property · civil procedure

PRACTICE AREAS

civil procedure · intellectual property · patent litigation · commercial litigation · damages

QUESTIONS PRESENTED

1. Whether the 2020 NIH/NIAID Agreement, the 2019 NIAID Research Collaboration Agreement, and AbCellera's related NIH royalty reports were discoverable because they could bear on contributions to bamlanivimab's success or profitability and thus on AbCellera's damages theories.
2. Whether the other agreements listed in Section 1 of the 2020 NIH/NIAID Agreement were discoverable when Bruker had articulated no non-speculative basis for obtaining them.

HOLDINGS

1. The 2020 NIH/NIAID Agreement, the 2019 NIAID Research Collaboration Agreement, and AbCellera's royalty reports to the NIH were discoverable and had to be produced to Bruker Cellular in unredacted form because AbCellera's damages theories relied at least in part on bamlanivimab's success or profitability.
2. The other agreements listed in Section 1 were not discoverable because Bruker Cellular had not articulated a non-speculative basis for their production.

KEY QUOTATIONS

> *"To the extent AbCellera relies on the success or profitability of an antibody discovered using its patented methods to support its damages theories, Bruker Cellular should be permitted to obtain discovery regarding contributions to that success or profitability."* (at 2)

> *"Conversely, Bruker Cellular has not articulated any non-speculative grounds for discovery of the other agreements listed in Section 1 of the 2020 NIH/NIAID Agreement."* (at 3)

FACTUAL BACKGROUND

AbCellera asserted patent claims concerning methods allegedly used to discover bamlanivimab and relied at least in part on bamlanivimab's royalty revenues, success, or profitability in calculating reasonable royalty and lost-profits damages. Bruker sought unredacted NIH and NIAID agreements and royalty reports to determine whether intellectual property and technologies other than the asserted patents contributed to bamlanivimab's development and resulting value. The parties agreed that the agreements did not license or otherwise implicate the asserted patents.

PROCEDURAL HISTORY

Following an earlier order at Dkt. No. 309, the court reviewed the parties' additional arguments concerning Bruker Cellular's demand for complete, unredacted copies of specified NIH and NIAID agreements and royalty reports. The court resolved the dispute without oral argument under Civil Local Rule 7-1(b), requiring production of three categories of materials but denying discovery of other agreements listed in the 2020 agreement.

DISPOSITION

other

CASES CITED

- Kamakana v. City & County of Honolulu, 447 F.3d 1172, 1179-80 (9th Cir. 2006)

OPINION

AbCellera Biologics Inc. v. Bruker Cellular Analysis, Inc.
PER CURIAM.
1 2 3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6 7 ABCELLERA BIOLOGICS INC, et al., Case No. 20-cv-08624-JST (VKD) 8 Plaintiffs,
ORDER RE MARCH 14, 2025
9 v. DISCOVERY DISPUTE RE NIH AND
NIAID AGREEMENTS
10 BRUKER CELLULAR ANALYSIS,
Re: Dkt. Nos. 321, 322 Defendant. 11 12 13 Further to the Court's order at Dkt. No. 309, the Court has reviewed and considered the 14 parties' additional arguments regarding defendant Bruker Cellular Analysis, Inc.'s ("Bruker 15 Cellular") demand for complete, unredacted copies of the following documents: 16 1. May 4, 2020 Patent License Agreement between plaintiff AbCellera Biologics, Inc. 17 ("AbCellera") and the National Institute of Allergy and Infectious Diseases 18 ("NIAID") ("2020 NIH/NIAID Agreement"); 19 2. Other agreements listed in Section 1 of the 2020 NIH/NIAID Agreement; 20 3. AbCellera's "royalty reports" to the NIH under the 2020 NIH/NIAID Agreement; 21 and 22 4. March 12, 2019 Research Collaboration Agreement between AbCellera, NIAID, 23 and the University of Texas at Austin ("2019 NIAID RCA"). 24 The Court finds this dispute suitable for resolution without oral argument. Civil L.R. 7- 25 1(b).1 26 1 Plaintiffs move to seal certain portions of the parties' discovery letter brief, and to seal the 27 appended Exhibits 1 to 4 in their entirety. Dkt. No. 321. The good cause standard applies to 1 AbCellera argues, and Bruker Cellular does not dispute, that neither the 2020 NIH/NIAID 2 Agreement nor the 2019 NIAID RCA includes a license or any other provision implicating any of 3 the asserted patents. See Dkt. No. 322 at 1, 2, 4. Nevertheless, Bruker Cellular argues that it 4 requires production of these agreements so that it may rebut AbCellera's own damages theories.
5 Id. at 2. Specifically, Bruker Cellular asserts that AbCellera's reasonable royalty and lost profits
6 calculations rely on "all royalty revenues" from bamlanivimab—an antibody used to treat COVID- 7 19 that AbCellera contends was discovered using the patented methods at issue in this case. Id. at 8 1, 2, 4 n.6, 5. Bruker Cellular contends that this discovery is relevant to its arguments that other 9 intellectual property and technologies, not just the asserted patents, contributed to the development 10 of bamlanivimab. Id. at 2. 11 The Court agrees with AbCellera that agreements concerning patents or other intellectual 12 property unrelated to the asserted patents are irrelevant as evidence of a comparable license or an 13 established royalty rate. See id. at 4, 5. However, as

explained above, Bruker Cellular does not 14 seek discovery of the documents in question for this purpose. See id. at 2. To the extent 15 AbCellera relies on the success or profitability of an antibody discovered using its patented 16 methods to support its damages theories, Bruker Cellular should be permitted to obtain discovery 17 regarding contributions to that success or profitability. So far as the Court can tell, AbCellera 18 does not deny that its damages theories do rely, at least in part, on the success of bamlanivimab. 19 Accordingly, the Court concludes that the following materials are at least discoverable: (1) the 20 2020 NIH/NIAID Agreement; (2) 2019 NIAID RCA; and (3) AbCellera's "royalty reports" to the 21 NIH under the 2020 NIH/NIAID Agreement. AbCellera must produce these documents in 22 unredacted form to Bruker Cellular. 23 Conversely, Bruker Cellular has not articulated any non-speculative grounds for discovery 24 of the other agreements listed in Section 1 of the 2020 NIH/NIAID Agreement. AbCellera need 25 /// 26 27 Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1179-80 (9th Cir. 2006). Good cause 1 not produce these documents. 2 IT IS SO ORDERED. 3 || Dated: April 15, 2025 4 5 Virginia K. DeMarchi 6 United States Magistrate Judge 4 8 9 10 11 12 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28