

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

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