

AstraZeneca is involved in the domestic commercialization and sale of Defendant Daiichi Sankyo Co. Ltd.'s ("Daiichi Sankyo Japan") drug Enhertu, which is the accused product in this case. AstraZeneca has defenses that share common questions of law and fact, including similar non-infringement and invalidity defenses. *Reid v. General Motors Corp.*, 240 F.R.D. 257, 260 (E.D. Tex. 2006). Intervention would not unduly delay or prejudice the rights of Plaintiff Seagen, Inc. ("Seagen") or Defendant Daiichi Sankyo Japan because Seagen, Daiichi Sankyo Japan, and

AstraZeneca have agreed to allow the intervention in a manner that does not disrupt the existing schedule or expand the scope of the case. In particular, the parties have agreed that AstraZeneca will join Daiichi Sankyo Japan's invalidity contentions and they will file claim construction briefing and "any other permitted briefs, such as in support of summary judgment or pretrial proceedings, jointly on a 'per side' basis, and without any expansion of page limitations." (Dkt. No. 126 at 4). The Court also notes that the Motion to Intervene was timely.

Therefore, having considered the Motion to Intervene, and noting it is unopposed, the Court is of the opinion that it should be and hereby is **GRANTED**. It is **ORDERED** as follows:

1. AstraZeneca Pharmaceuticals LP and AstraZeneca UK Limited (collectively, "AstraZeneca") are permitted to intervene pursuant to Rule 24 as defendants. They are directed to file their Answer, attached as Exhibit A to their motion, within **two (2) business days** of this Order. Papers filed in this action going forward shall use the caption above.
2. AstraZeneca shall have until **Friday, August 6, 2021** to comply with Paragraphs 1 and 3 of the Court's Discovery Order (Dkt. No. 51) and is not obligated to re-produce documents already produced in this action by Daiichi Sankyo Company, Limited ("Daiichi Sankyo Japan"). AstraZeneca shall have until **Friday, August 6, 2021** to comply with Paragraph 6 of the Court's Discovery Order (Dkt. No. 51) and is not obligated to re-log privileged information already logged by Daiichi Sankyo Japan. Each party shall produce to AstraZeneca any documents that such party previously produced in this action by **Friday, August 6, 2021**.
3. The Discovery Limitations set forth in Paragraphs 5(a) and 5(b) of the Court's Discovery Order (Dkt. No. 51) that are "per party" shall apply "per side." Daiichi Sankyo Japan and AstraZeneca shall coordinate in seeking to take the deposition of any Seagen-affiliated witness and no witness shall be deposed for more than seven hours based on the fact that there are multiple defendants. If Seagen needs to conduct an in-person deposition of a witness affiliated with AstraZeneca who is based in the United Kingdom and who has been identified in AstraZeneca's initial disclosures, to avoid the need to invoke procedures under the Hague Evidence Convention, AstraZeneca UK shall make such a witness available for deposition in the United States, subject to any travel restrictions imposed by either the United States or the United Kingdom as a result of the COVID-19 pandemic.
4. AstraZeneca US and AstraZeneca UK are "Parties" to the Court's Protective Order (Dkt. No. 55).

5. AstraZeneca US and AstraZeneca UK are “Parties” to the E-Discovery Order (Dkt. No. 65).
6. Daiichi Sankyo Japan and AstraZeneca shall file a single Responsive Claim Construction Brief, and AstraZeneca will join in Daiichi Sankyo Japan’s Invalidity Contentions. No change is being made to the P.R. 3.3 & 3.4 deadlines.
7. Daiichi Sankyo Japan and AstraZeneca shall file any other permitted briefs, such as in support of summary judgment or pretrial proceedings, jointly on a “per side” basis, and without any expansion of page limitations.

The Clerk of Court is directed to add AstraZeneca Pharmaceuticals LP and AstraZeneca UK Ltd as Intervenor-Defendants on CM/ECF and to amend the case caption accordingly.

So ORDERED and SIGNED this 28th day of July, 2021.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE