

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

CITY OF HOPE NATIONAL MEDICAL
CENTER,

Plaintiff and Respondent,

v.

GENENTECH, INC.,

Defendant and Appellant.

B161549

(Los Angeles County
Super. Ct. No. BC215152)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on October 21, 2004, be modified as follows:

1. On page 10, the second sentence of the second full paragraph, deleted the words “received millions of dollars from licensing” and replace with “licensed” so the sentence reads:

Also, Genentech licensed the Riggs-Itakura patents to third parties, including but not limited to: Eli Lilly, KabiGen, Hoffman-La Roche, Monsanto, Boehringer-Ingelheim, Mitsubishi Chemical Industries (Mitsubishi), SmithKline Beechum (SmithKline), Cambridge Biotech, Chiron, Delca Biotechnology, E. Merck, Life Technologies, Repligen, Research and Diagnostic Systems, Sandoz, Seragen, Shionogi, Sunnery, Takeda Chemical Industries (Takeda), and Wyeth-Ayerst.

2. On page 21, the second sentence of the second full paragraph, the words “of products manufactured using a Riggs-Itakura patent it acquired under the agreement” are to be inserted between the words “sales” and “, and” so that the sentence reads:

Nowhere else did the first draft refer to a royalty rate for Genentech’s sales of products manufactured using a Riggs-Itakura patent it acquired under the agreement, and nowhere else did it provide a blank for the royalty rate.

There is no change in the judgment.

Defendant and Appellant’s petition for rehearing is denied.