

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NOVOZYMES A/S and
NOVOZYMES NORTH AMERICA, INC.,

Plaintiffs,

v.

DANISCO A/S,
GENECOR INTERNATIONAL WISCONSIN, INC.,
DANISCO US INC. and DANISCO USA INC.,

Defendants.

ORDER

10-cv-251-bbc

Plaintiffs Novozymes A/S and Novozymes North America, Inc. are suing defendants Danisco A/S, Genecor International Wisconsin, Inc., Danisco US Inc. and Danisco USA Inc. for infringement of U.S. Patent No. 7,713,723. In an order dated February 4, 2011, dkt. #185, I denied defendants' motion for summary judgment in which they argued that the written description of the '723 patent was inadequate. I concluded that defendants had not met their burden to prove by clear and convincing evidence that the patent is invalid as a matter of law.

Defendants have filed a motion for reconsideration of the summary judgment

decision, but they do not challenge the court's understanding of the law or facts discussed in the opinion. Instead, they rely entirely on Centocor Ortho Biotech, Inc. v. Abbott Laboratories, No. 2010-1144, — F.3d — , 2011 WL 635291 (Fed. Cir. Feb 23, 2011), a case decided after the summary judgment opinion issued, arguing that it represents a “significant clarification in the law on written description, as it applies to facts strikingly similar to the case at hand.” Dfts.’ Br., dkt. #207, at 2. Having reviewed Centocor, I am not persuaded that it represents a significant departure from previous case law or that its discussion is particularly enlightening for the purpose of this case. Accordingly, I am denying defendants’ motion.

Also before the court is defendants’ motion for leave to amend their answer and counterclaim to add allegations regarding inequitable conduct. Because plaintiffs do not oppose the motion, I will grant it.

ORDER

IT IS ORDERED that

1. The motion for reconsideration filed by defendants Danisco A/S, Genecor International Wisconsin, Inc., Danisco US Inc. and Danisco USA Inc., dkt. #206, is DENIED.

2. Defendants’ motion for leave to file a second amended answer and counterclaim,

dk. #208, is GRANTED.

Entered this 5th day of April, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge