

# SUPREME COURT OF THE UNITED STATES

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IN THE SUPREME COURT OF THE UNITED STATES

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AMGEN INC., ET AL., )  
                                Petitioners, )  
                                v. ) No. 21-757  
SANOFI, ET AL., )  
                                Respondents. )  
- - - - -

Pages: 1 through 111  
Place: Washington, D.C.  
Date: March 27, 2023

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for the United States, as amicus curiae,  
supporting the Respondents.

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	JEFFREY A. LAMKEN, ESQ.	
4	On behalf of the Petitioners	3
5	ORAL ARGUMENT OF:	
6	PAUL D. CLEMENT, ESQ.	
7	On behalf of the Respondents	56
8	ORAL ARGUMENT OF:	
9	COLLEEN R. SINZDAK, ESQ.	
10	For the United States, as amicus	
11	curiae, supporting the Respondents	86
12	REBUTTAL ARGUMENT OF:	
13	JEFFREY A. LAMKEN, ESQ.	
14	On behalf of the Petitioners	105
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 (10:05 a.m.)

3 CHIEF JUSTICE ROBERTS: We'll hear  
4 argument first this morning in Case 21-757,  
5 Amgen versus Sanofi.

6 Mr. Lamken.

7 ORAL ARGUMENT OF JEFFREY A. LAMKEN  
8 ON BEHALF OF THE PETITIONERS

9 MR. LAMKEN: Thank you, Mr. Chief  
10 Justice, and may it please the Court:

11 Amgen invented a new class of  
12 antibodies that lower cholesterol that bind to a  
13 small spot on PCSK9, the sweet spot, and thereby  
14 block that protein from binding to and  
15 destroying LDL receptors that remove  
16 cholesterol. Amgen had in hand 384 examples  
17 before the Texas article Sanofi cites as  
18 hypothesizing such antibodies, before Sanofi  
19 began researching PCSK9.

20 This case concerns the reason -- the  
21 requirement that patents enable skilled artisans  
22 to make and use the invention. The roadmap in  
23 Amgen's patents allows skilled artisans to  
24 easily make those antibodies every time using  
25 two new anchor antibodies that cover the entire

1     sweet spot so skilled artisans can be certain to  
2     make all the claims' antibodies, including  
3     defendants' examples.

4             The Federal Circuit here never  
5     identified a single actual antibody that's in  
6     the claims that can't be made or requires undue  
7     experimentation. Instead, it invoked something  
8     that no one will defend is even relevant here:  
9     the cumulative effort to make all or some large  
10    group of an invention's potentially myriad  
11    variations.

12            This Court's cases, however, reflect  
13    the Act's pragmatic boots-on-the-ground focus on  
14    enabling skilled artisans who want to practice  
15    the invention on a concrete action, making and  
16    using the invention. Patents thus satisfy the  
17    law when sufficiently definite to guide  
18    artisans' successful application of the  
19    invention wherein there's some practical way of  
20    putting them into operation, requiring  
21    reasonableness with due regard to the patent's  
22    subject matter.

23            In concrete terms, that means that  
24    those who are seeking to overto the P --  
25    overturn the PTO's issuance of the patents and