

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
 AMGEN INC., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 )  
 F. HOFFMANN-LAROCHE )  
 LTD., a Swiss Company, ROCHE )  
 DIAGNOSTICS GmbH, a German )  
 Company and HOFFMANN LAROCHE )  
 INC., a New Jersey Corporation, )  
 )  
 Defendants. \_\_\_\_\_ )

**C.A. NO.: 05-12237-WGY**

**AMGEN INC.’S MOTION TO FILE DOCUMENT UNDER SEAL**

Pursuant to Local Rule 7.2(e), Plaintiff Amgen Inc. (“Amgen”) hereby moves this Court for leave to file under seal its Petition Objecting to the ITC Administrative Law Judge’s (“ALJ’s”) Initial Determination dated July 7, 2006 (the “Petition”).

Amgen seeks leave to file the Petition in this action only because the Court has granted the Defendants’ motion to file the ALJ’s Initial Determination in this action. Amgen does not believe that the grounds for the ALJ’s Initial Determination are relevant to the issues raised by the Defendants’ currently pending Motion to Dismiss in this Court. However, if the Court is inclined to consider any part of the Initial Determination in resolving Defendants’ pending motion, the Court should also receive and consider Amgen’s Petition (for the reasons set forth in Amgen’s Post Hearing Memorandum in Opposition to Defendants’ Motion to Dismiss for Lack of Subject Matter Jurisdiction). Conversely, if the Court denies the instant motion to file the Petition, the Court should not consider the Initial Determination in resolving Defendants’ pending motion to dismiss.

Amgen seeks leave to file the Petition under seal because it contains information that has been designated confidential by the Defendants under the Protective Order entered in the ITC Proceeding (the "ITC Protective Order"), Pursuant to the terms of the ITC Protective Order, Amgen sought Defendants' assent to filing the Petition under seal in this action. Defendants objected to the filing of the Petition in this action.

WHEREFORE, Amgen respectfully requests that the Court grant Amgen leave to file the Petition under seal and that the Court order that the Petition will remain under seal until such time as a further order of the Court issues.

Dated: July 21, 2006

Respectfully Submitted,

AMGEN INC.,  
By its attorneys,

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**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

I certify that counsel for the parties have conferred in an attempt to resolve or narrow the issues presented by this motion and that counsel for F. Hoffman-LaRoche Ltd., Hoffman LaRoche Inc., and Roche Diagnostics, GmbH, does not consent to Amgen filing its Petition Objecting to the ITC Administrative Law Judge's Initial Determination dated July 7, 2006. However, in the event the Court accepts the filing, Defendants assent to Amgen's request for leave to file the Petition under seal.

/s/ Michael R. Gottfried

Michael R. Gottfried

**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on July 21, 2006.

/s/ Michael R. Gottfried

Michael R. Gottfried