

Exhibit 2

9.3.1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 87-2617-Y

MAGISTRATE PATTI B. SARIS

AMGEN, INC.,
Plaintiff,

v.

CHUGAI PHARMACEUTICAL CO., LTD.,
and GENETICS INSTITUTE, INC.,

Defendants.

DEFENDANTS' JOINT APPENDICES TO PROPOSED FINDINGS
OF FACT AND CONCLUSIONS OF LAW

VOLUME 1
FINDINGS I-1 to I-33
FINDINGS II-1 to II-35

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Amgen's Request No. 56

Genetics Institute has sold or otherwise transferred host cells capable of producing erythropoietin to others after October 27, 1987.

Chugai's Response

Objected to. See general objection 1. Chugai admits that GI transferred to Chugai, but did not sell, a small quantity of host cells transfected with a cDNA sequence encoding EPO after October 27, 1987. These cells were used by Chugai in Japan for experimental rather than commercial purposes.

Amgen's Request No. 82

A patent was procured in Dr. Lin's name, U.S. Patent No. 4,703,008 ("008 patent"), entitled "DNA Sequences Encoding Erythropoietin." The '008 patent was issued on October 27, 1982.

Chugai's Response

Admitted.

Amgen's Request No. 90

In a January 11, 1984 telex from Chugai to G.I., the following statement was made:

"Thanks for your tlx of 6th. The news plus Amgen-the first to clone EPO-was received here with a serious concern because we considered the first cloning of EPO at your institute as a contingent condition to sponsor the project. We assume that Amgen's first cloning of EPO is certainly patentable and it will seriously damage commercial interest of other EPO projects inclusive of yours. We urgently need to make a thorough review of the information and situation."

Chugai's Response

Objected to. See general objection 3. Chugai admits the existence and authenticity of the document quoted above, and denies this request to the extent it is inconsistent with that document.