UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN INC., Plaintiff, v. F. HOFFMANN-LA ROCHE LTD ROCHE DIAGNOSTICS GmbH and HOFFMANN-LA ROCHE INC. Defendants.	CIVIL ACTION No.: 05-CV-12237 WGY

NOTICE OF PARTIAL WITHDRAWAL OF DEFENDANTS' *OMNIBUS* MOTION TO ADMIT PARTY ADMISSIONS AND PREVIOUS FINDINGS OF FACT INTO EVIDENCE (D.N. 1067)

Based on the arguments set forth by Amgen in its opposition (D.N. 1130), Defendants F. Hoffmann-La Roche Ltd, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively "Roche") withdraw its motion to enter into evidence (1) requests for admission from *Amgen v Chugai Pharm*., 87-2617-Y (D. Mass.); (2) findings of fact from *Amgen v. Hoechst Marion Roussel*, 126 F. Supp. 2d 69 (D. Mass. 2001); (3) findings of fact from *Amgen, Inc. v. Chugai Pharm*., 1989 WL 169006 (D. Mass. 1989); and (4) findings of fact from *In re Certain Recombinant Erythropoietin*, Investigation No. 337-TA-281.

Roche maintains its request to read the following into evidence as a binding admission pursuant to Fed. R. Civ. P. 36:

***Amgen v. F. Hoffman-La Roche Ltd*, 05-CV-12237 WGY (D. Mass.)**

REQUEST FOR ADMISSION NO. 32.

Admit that both rHuEPO and u-EPO are capable of increasing hemoglobin synthesis after in vivo administration to mice.

RESPONSE TO REQUEST FOR ADMISSION NO. 32:

In addition to the foregoing General Objections, Amgen makes the following Specific Objections to this Request: Amgen objects to the request because the terms "u-HuEPO," "r-HuEPO," and "capable of," as Defendants use them in this request, are vague, ambiguous, overly broad, and subject to disputed and varied definitions. Consequently, this request is insufficiently precise and lacks information upon which to admit the request according to the Federal Rule of Civil Procedure 36. Amgen objects to this request because it is premature and calls for expert testimony.

Subject to the foregoing General and Specific Objections, Amgen admits that both Dr. Lin's claimed recombinant human erythropoietin products and the human urinary erythropoietin preparation purified by Drs. Miyake and Goldwasser as described in Miyake, et al., *J. Biol. Chem*., 252, 5558-5564 (1977) have caused increased hemoglobin synthesis after in vivo administration to mice. Amgen otherwise denies Roche's Request for Admission No. 32. (RFA, p. 18).

Dated: September 25, 2007
Boston, Massachusetts

Respectfully submitted,

F. HOFFMANN-LA ROCHE LTD,
ROCHE DIAGNOSTICS GMBH, and
HOFFMANN-LA ROCHE INC.

By their Attorneys,

/s/ Nicole A. Rizzo
Lee Carl Bromberg (BBO# 058480)
Robert L. Kann (BBO# 258025)
Julia Huston (BBO# 562160)
Keith E. Toms (BBO# 663369)
Nicole A. Rizzo (BBO# 663853)
Kregg T. Brooks (BBO# 667348)
BROMBERG & SUNSTEIN LLP
125 Summer Street
Boston, MA 02110
Tel. (617) 443-9292
nrizzo@bromsun.com

Leora Ben-Ami (*pro hac vice*)
Mark S. Popofsky *(pro hac vice)*
Patricia A. Carson (*pro hac vice*)
Thomas F. Fleming (*pro hac vice*)
Howard S. Suh (*pro hac vice*)
Peter Fratangelo (BBO# 639775)
Vladimir Drozdoff (*pro hac vice*)
David L. Cousineau (*pro hac vice*)
KAYE SCHOLER LLP
425 Park Avenue
New York, New York 10022
Tel. (212) 836-8000

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 (NEF). Pursuant to agreement of counsel dated September 9, 2007, paper copies will not be sent to those indicated as non registered participants.

/s/ Nicole A. Rizzo
Nicole A. Rizzo

03099/00501 745549.1