EXHIBIT H

Exhibits: 1-8 Volume 1, Pages 1-281

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05 Civ. 12237 WGY

AMGEN INC.

Plaintiff

vs.

F. HOFFMANN-LA ROCHE LTD.,

ROCHE DIAGNOSTICS GmbH, and

HOFFMANN-LA ROCHE INC.

Defendants

Certified Copy

VIDEOTAPED DEPOSITION OF
EDWARD E. HARLOW, JR., Ph.D.

Wednesday, June 20, 2007, 8:52 a.m.

Duane Morris LLP
470 Atlantic Avenue
Boston, Massachusetts

** TRANSCRIPT DESIGNATED CONFIDENTIAL ***

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modified glycoprotein?

MR. BROMBERG: Objection.

A. Try the question again -- now I've lost the train of thought.

Q. Would one of skill in the art as of December 1983 have had a reasonable expectation that with a DNA sequence in hand he or she could produce a properly modified, post-translationally modified secreted glycoprotein?

A. It depends.

Q. You know I'm going to follow up. What does it depend on?

A. I won't be mean. It depends on the protein under study.

Q. As of December 1983 is it your opinion that one of skill in the art had a reasonable expectation of success in producing a recombinant erythropoietin that had undergone proper post-translational modification to achieve an in vivo biologically active protein?

A. With the available clone, yes.

Q. Now, among the post-translational modifications that you've identified, I'd like to focus for a moment on glycosylation. So can you describe briefly what "glycosylation" means?

A. Addition of various sugar moieties to a polypeptide -- in this case, anyway, to a polypeptide.

Q. There are a number of different kinds of glycosylation; correct?

A. There are.

Q. And different types of host cells produce different types of sugars?

A. Yes.

Q. And different types of host cells produce different sugars with different branch structures?

A. Correct.

Q. Can small changes in glycosylation produce significant changes in a protein's biological activity?

A. I think that is known, yes.

Q. Was it known in 1983?

A. Yes.

Q. Different proteins require different kinds of glycosylation?

A. Yes.

Q. And some glycoproteins do not require glycosylation in order to be biologically active in vivo; correct?

A. That's my understanding.
Q. Was that known in 1983?
A. That I don't know.
Q. In addition to glycosylation, there are other post-translational modifications that were known in 1983; correct?
A. There were. Yes, there were.
Q. Do different cells in different cell lines affect post-translational modifications differently?
A. Yes.
Q. And do different proteins require different post-translational modifications?
A. Yes.
Q. Can different post-translational modifications lead to different species of any given protein?
A. Define "species."
Q. Okay. Can different post-translational modifications affect the in vivo biological activity of any given protein?
MR. BROMBERG: Objection.
A. You've gotten more complicated. Try it a different way, please.
Q. Can differences in the

correct?

A. That's my understanding, yes.

Q. And so the fact that you were able to produce in a particular mammalian host cell another glycoprotein that does not require glycosylation for in vivo activity would not provide one of ordinary skill in the art a reasonable expectation that that particular host cell would have produced functional glycosylation of a human protein, would it?

MR. BROMBERG: Objection.

A. I don't agree with that logic.

Q. Why not?

A. You've posed a situation that doesn't lead to an outcome that's required.

Q. Well, if a protein does not require glycosylation for in vivo activity, the fact that you see in vivo activity even of a glycosylated protein can't provide you with any certainty that the host employed produces functional or correct glycosylation, can it?

A. That part's true, yes.

Q. Okay. And so if what had been shown as of 1983, December 1983, is that a protein that did not require glycosylation for in vivo activity was produced using a particular host cell, one of

ordinary skill in the art would not have had a reasonable expectation based on that fact that the particular host cell employed could produce EPO with a functional glycosylation, would they have?

A. I think that is true.

Q. Okay. So, to put it into simpler terms, by December 1983 you cite to various examples where CHO cells had been used to produce recombinant glycoproteins; correct?

A. Correct.

Q. And in fact, I think it's at Paragraph 25 of your report, you say, "CHO cells were well known by 1983 to express foreign glycoproteins having their known in vivo biological activity."

A. What paragraph are we on?

Q. It's Page 11, Paragraph 25. Do you see that?

A. Yes.

Q. So first of all, here you use the term "in vivo biological activity"; correct?

A. Yes.

Q. What did you mean by it in this sentence?

A. The series of different responses that are often referred to as "in vivo." We talked

recombinant glycoprotein has biological activity --
A. Okay.
Q. -- and it can have biological activity even without glycosylation --
A. Yes.
Q. -- does the demonstration of biological activity provide any certainty that the glycosylation imparted on that particular glycoprotein is functional?
MR. BROMBERG: Objection.
A. So the glycoprotein is glycosylated, and the glycosylation isn't needed. Does that mean that the protein --
Q. Does that tell you anything about the function of the glycosylation, whether it's functional?
A. You know, it depends. It's a meaningless combination of things in the logic.
Q. Okay, let me give you a specific example. Alpha interferon --
A. Okay.
Q. -- is a known glycoprotein.
A. Good.
Q. You produce it in a CHO cell, you get glycosylated alpha interferon.

A. Uh-huh.
Q. If you had unglycosylated alpha interferon and you stick unglycosylated alpha interferon into a body, you get in vivo biological activity.
A. Okay.
Q. If you stick glycosylated CHO-produced recombinant alpha interferon into a body, you get in vivo activity.
A. Yep.
Q. Does the demonstration of in vivo activity for recombinant alpha interferon tell you anything about whether the CHO cell can impact functional glycosylation on a recombinant human protein?
A. It says nothing about glycosylation.
Q. It doesn't tell you one way or another whether the host cell employed can make functional glycosylation; correct?
A. That's correct.
Q. Now, by December of 1983 it was known that EPO was a heavily glycosylated protein; is that correct?
A. That's my understanding.
Q. In fact, by that date it was known that