

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

AMGEN, INC.,

Plaintiff,

v.

Civil Action No.  
05-CV-12237-WGY

F. HOFFMANN-LA ROCHE, LTD.,  
a Swiss Company, ROCHE  
DIAGNOSTICS GmbH, a German  
Company, and HOFFMANN-LA  
ROCHE, INC., a New Jersey  
Corporation,

Defendants.

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VIDEOTAPED DEPOSITION OF FU-KUEN LIN, PH.D.

VOLUME I

WESTLAKE VILLAGE, CALIFORNIA

MARCH 28, 2007

(This transcript contains  
testimony designated confidential  
as per Section 5(c) of the  
Amended Protective Order. Please  
treat the entire transcript in  
accordance with the protective  
order.)

Reported by: Harry Alan Palter, C.S.R. NO. 7708

1           A     After we had purify the E.coli EPO --  
2 I believe E.Coli EPO has also assay in the  
3 in vivo system, it have some activity.

4           Q     And who did that work?

5           A     That I believe was -- in vivo assay  
6 would have been done through Joan Egrie's  
7 group --

8           Q     Okay.

9           A     -- or maybe someone else.  
10                    If it's not by her, it would be by  
11 someone else outside. Because I think, at the  
12 time, we had -- EPO assay -- part of EPO assay  
13 -- part is carried out outside.

14          Q     Now, if you continue looking down on  
15 this column, we're still on this column, it  
16 says -- it's line -- the line numbers don't  
17 always match up perfectly, so I'll give you my  
18 best understanding, which is line 58 or 59. It  
19 talks about vertebrate cells being mammalian  
20 and avian?

21                    Do you see that?

22          A     Yes.

23          Q     How many different vertebrate cells  
24 did Amgen use to produce biologically active  
25 human EPO by November 30, 1984?

1 which one?

2 Could you read again?

3 BY MS. BEN-AMI:

4 Q The whole -- the section -- the RIA  
5 for EPO, that section --

6 A The whole section?

7 Q -- where it says, "The Procedures";  
8 right?

9 A What do you -- the very beginning,  
10 "Radioimmunoassay procedures"?

11 Q Yes.

12 A Could I read through the whole thing  
13 before I answer you?

14 Q Sure. Of course.

15 A (Examining document).

16 (Brief pause)

17 A Yes.

18 Q Okay.

19 My question was: Those procedures  
20 described in column 17 under the RIA were  
21 created by Dr. Egrie; is that correct?

22 A I cannot tell you it's created by her  
23 or not. I don't know.

24 That's the procedure that she use.

25 Q Okay.

1                   Did you tell her to use that  
2 procedure?

3           A     No, I did not.

4           Q     Okay.

5                   In the -- at line 34, it says, "An  
6 erythropoietin standard was incubated."

7                   Do you see that?

8           A     Yes.

9           Q     What was that standard?

10          A     I cannot speak for her.

11                   I don't know which standard that she  
12 use.

13          Q     Okay.

14                   In column 18, where it talks about  
15 the monkey cDNA library construction -- do you  
16 see that?

17          A     Yes.

18          Q     Who did that work?

19          A     Yes, I did.

20          Q     You did that work?

21          A     Yes.

22          Q     Okay.

23                   And then column -- the same column,  
24 18, B, "Colony hybridization procedures for  
25 screening monkey cDNA library" -- do you see

1           You're talking about example 7 --  
2   second part of example 7, or are you --

3           Q     Okay.

4                     Were you on example 7, second part?

5           A     Yeah.

6           Q     Because --

7           A     Oh --

8                     (Simultaneous discussion interrupted  
9                     by the reporter)

10                    MS. BEN-AMI: Okay.

11   BY MS. BEN-AMI:

12           Q     Are you now looking at example 7-B?

13           A     Yes.

14           Q     Okay.

15                     Who did that work?

16           A     I believe it was Jeff Browne's group.

17           Q     Okay.

18                     And now let's get back to example 8.

19                     Who did that work?

20           A     (Examining document) I believe this  
21   is done by Joan Egrie's group.

22           Q     Okay.

23                     And did you tell her how to do this  
24   work that's in example 8?

25           A     Molecular biology for doing the

1 radioimmunoassay, they would know how to carry  
2 out radioimmunoassay.

3 I don't have to tell her how to do  
4 it, unless she have problem, come to me, or  
5 have problem arise -- any problem raise.

6 Q Did you say "raise"?

7 A Yes.

8 Q "Raise."

9 Sorry.

10 A So for doing the immunoassay, any  
11 associate or scientist can do it.

12 Q Okay.

13 So that was in the common knowledge  
14 at the time?

15 MR. MADRID: Objection.

16 Outside the scope of the 30(b)(6).

17 Calls for expert testimony.

18 THE WITNESS: Radioimmunoassay is  
19 commonly employed.

20 BY MS. BEN-AMI:

21 Q Okay.

22 So example 9, who did that work?

23 That's a short one.

24 A The question again?

25 Q Who did the work in example 9?

1           A       For the in vitro assay -- again, I  
2 think -- I believe it's done by Joan Egrie's  
3 group.

4                   For the in vivo assay, I don't know  
5 at the time we already set our own in vivo  
6 system -- it's a system in-house or not. It  
7 could be done by outside consultant.

8                   I think we, at one time -- some of  
9 the assay was carried out by Peter Dukes' group  
10 at the children hospital.

11           Q       So did you tell anybody how to do the  
12 work that was in example 9?

13           A       Oh, we know -- how to do this. I  
14 don't have to tell them. This is individual  
15 who -- in charge of setting up this assay.  
16 They know how to do it. I don't have to tell  
17 them what to do.

18           Q       These in vitro and in vivo assays  
19 that are described in example 9, those were  
20 assays that were commonly known at the time;  
21 right?

22           A       Yes.

23                   MR. MADRID: Objection.

24                   Outside of the scope of the 30(b)(6)  
25 notice.



1 from Dr. Browne?

2 A This is known at the time, when you  
3 want to select cells which -- let me put it  
4 this way: This methotrexate is long -- is  
5 known -- is known to -- to inhibit  
6 dihydrofolate reductase. This is known. This  
7 is the way the people use to amplify the DHFR  
8 gene, which is known at the time.

9 Q So now, the next paragraph, which is  
10 column 27, line 62 to column 28, line 23.

11 Can you read that to yourself, and  
12 we'll have the same --

13 A From where?

14 Q The next paragraph.

15 It goes from the bottom of column 27  
16 around line 62 to column 28, line 24 or so --  
17 23.

18 A (Examining document) Could you  
19 rephrase the question, again?

20 Q Yeah.

21 For this paragraph that we just  
22 looked at, column 27, line 62 through column  
23 28, line 23, who did that work?

24 A The assay aspect was carried out by  
25 Joan Egrie's groups.

1 line 44, through column 29, line 15?

2 A I think, again, this is done -- had  
3 to be done -- this is done by Jeff Browne's  
4 group.

5 Q Okay.

6 And the next paragraph relates to  
7 doing RIAs and in vivo assays.

8 And that part was done by Dr. Egrie's  
9 group and Dr. Dukes?

10 A Could I read it --

11 Q Sure.

12 A -- to be certain?

13 Where do you -- where are you?

14 Q Column 29, line 16 through 22 up  
15 until where it says, "Amino acid sequencing."

16 A (Examining document) Yes.

17 The question again?

18 Q That work was done by Dr. Egrie's  
19 group and Dr. Dukes'?

20 A The in vitro assay -- I think is done  
21 by -- it's carried out by Jeff -- I mean Joan  
22 Egrie's group.

23 In terms of in vivo, I think it's  
24 carried out -- still at the time carried out by  
25 Peter Dukes' group, I believe.

1 Q Okay.

2 And then it talks about the amino  
3 acid sequencing that followed? Who did that?

4 A You mean, the sentence that follow?

5 Q Yes.

6 A Okay.

7 Let me read it.

8 This one is -- in terms of sequencing  
9 was done by Por Lai's group.

10 Q So isn't it fair, Doctor, that  
11 whenever there's protein sequencing, it's Por  
12 Lai's group; is that right?

13 A Yes, that's correct.

14 Q And whenever it's gene-expression  
15 work, it's Dr. Browne's group -- Jeff Browne's  
16 group?

17 A Yes, at the time for this project.

18 Q Yes.

19 And whenever it's in vitro assays --  
20 whenever it is bioassays, whether it's in vitro  
21 or in vivo, it's either Dr. Egrie's group or  
22 Peter Dukes' group?

23 A At the time for EPO assay.

24 I'm not talking about any other  
25 assay.

1 Q Right.

2 We're just talking about --

3 A For EPO assay, it's Joan Egrie's  
4 group.

5 And in vivo assay at the time, I  
6 believe, was carried out by -- only by Peter  
7 Dukes' group.

8 Q So the work that your group did was  
9 creating the DNA probes -- right? -- creating  
10 the DNA probes to probe for the human genomic  
11 sequence?

12 A No.

13 My group --

14 MR. MADRID: Objection.

15 Objection.

16 Vague.

17 Go ahead.

18 THE WITNESS: My group is to find a  
19 way to isolate the gene; develop the  
20 methodology to isolate the gene. So it's not  
21 just create a probe, only.

22 BY MS. BEN-AMI:

23 Q Oh, I wasn't --

24 A The probe alone will not give you the  
25 gene; it's to develop a technology which allow

30(b)(6) Deposition of Fu-Kuen Lin, Ph.D. -Volume I  
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DECLARATION UNDER PENALTY OF PERJURY

I, Fu-Kuen Lin, Ph.D., do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken March 28, 2007; that I have made such corrections as appear noted herein, in ink, initialed by me; that my testimony as contained herein, as corrected, is true and correct.

DATED this 4<sup>th</sup> day of May, 2007, at Semis, California.

*Fu-Kuen Lin* May 4, 2007  
Fu-Kuen Lin, Ph.D.