

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 05-12237 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.)	

ROCHE’S RESPONSES AND OBJECTIONS TO AMGEN’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS (NOS. 1 TO 224)

Pursuant to Fed. R. Civ. P. 26 and 34, Defendants F. Hoffmann-La Roche Ltd, Roche Diagnostics GmbH and Hoffmann-La Roche Inc. (collectively “Roche”) respond as follows to Amgen’s First Set of Requests for the Production of Documents and Things.

GENERAL RESPONSES AND OBJECTIONS

The following general responses and objections apply to each individual response to Amgen’s Requests as if fully set forth therein.

1. The following responses are based on Roche’s current knowledge, understanding and belief and the information and documents available to it. These responses thus only constitute a preliminary position. Discovery in this action has only just begun. Roche anticipates that as this action proceeds, Roche may discover further facts and documents. Pursuant to Federal Rule of Civil Procedure 26(e), Roche reserves the right to supplement, modify, alter or otherwise change any of their responses to these Requests as this matter

REQUEST NO. 39:

All documents and things comprising or relating to any supplement or amendment to ROCHE's Biologics License Application for peg-EPO since April 19, 2006, including all communications, updates, analyses and patient data related thereto.

RESPONSE TO REQUEST NO. 39:

Roche incorporates herein by reference its Response to Request No. 37 above.

REQUEST NO. 40:

All documents and things comprising or relating to any communication, meeting or exchange of information between ROCHE and FDA regarding peg-EPO or EPO since April 19, 2006.

RESPONSE TO REQUEST NO. 40:

Roche objects to this Request as seeking materials and information that have no relevance to any claim or defense in this action as EPO is not the accused product in this case. Roche incorporates herein by reference its Response to Request No. 37 above.

REQUEST NO. 41:

Documents and things sufficient to configure correctly and execute properly each electronic copy of submissions made to FDA produced in response to Requests 37-40, above.

RESPONSE TO REQUEST NO. 41:

Roche incorporates herein by reference its Responses to Request Nos. 37 and 40 above.

REQUEST NO. 42:

All documents and things comprising or relating to any communication, meeting or exchange of information between ROCHE and any third party regarding ROCHE's Biologics License Application for peg-EPO and/or FDA's review or approval thereof.

RESPONSE TO REQUEST NO. 42:

Roche incorporates herein by reference its Response to Request No. 37 above.

REQUEST NO. 43:

All documents and things relating to any submission of information relating to peg-EPO to any governmental agency or body anywhere in the world.

RESPONSE TO REQUEST NO. 43:

Roche objects to this Request as overly broad, unduly burdensome, vague, ambiguous, harassing and not reasonably calculated to lead to the discovery of admissible evidence. Roche objects to this Request's use of the term "peg-EPO" as vague, ambiguous and misleading.

Roche objects to this Request as oppressive and of unreasonable scope as it seeks documents and things concerning foreign governmental agencies and bodies that have no relevance to any claim or defense in this action.

REQUEST NO. 44:

All documents and things relating to any communication, meeting or exchange of information relating to peg-EPO between ROCHE and any governmental agency or body anywhere in the world.

RESPONSE TO REQUEST NO. 44:

Roche incorporates herein by reference its Response to Request No. 43 above.

REQUEST NO. 45:

Documents and things sufficient to show the respective role and responsibility of each ROCHE team, group and/or third party involved in proposing, reviewing or executing any preparation for or launch of ROCHE's commercial sale of MIRCERA in the United States, including the manufacture, importation, advertising, promotion, marketing, training, pricing, sale, offer to sell, distribution or reimbursement of MIRCERA.

RESPONSE TO REQUEST NO. 45:

Roche objects to this Request to the extent it is overly broad, unduly burdensome, vague, ambiguous and not reasonably calculated to lead to the discovery of admissible evidence. Roche objects to this Request as seeking documents and information relevant only to issues relating to 35 U.S.C. § 271(e)(1) that were the subject of ITC Investigation No. 337-TA-568 that are no longer in issue in this action to the extent it refers to importation, distribution and related areas. To the extent any of these areas are still relevant to any issue in this action, Roche refers Amgen to Roche's production from the ITC investigation for documents responsive to this Request.

Respectfully submitted,

Handwritten signature of Howard S. Suh in cursive, followed by the initials "H. H." to the right.

Leora Ben-Ami
Patricia A. Carson
Thomas F. Fleming
Howard S. Suh
KAYE SCHOLER LLP
425 Park Avenue
New York, New York 10022
(212) 836-8000

and

Lee Carl Bromberg (BBO#058480)
Julia Huston (BBO# 562160)
Keith E. Toms (BBO# 663369)
BROMBERG & SUNSTEIN LLP
125 Summer Street
Boston, MA 02110
Tel. (617) 443-9292

*Attorneys for Defendants
F. Hoffmann-La Roche Ltd,
Roche Diagnostics GmbH, and
Hoffmann-La Roche Inc.*

December 4, 2006

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served upon the attorneys of record for the plaintiff (as listed below) via federal express overnight delivery and electronic mail on December 4, 2006.

Lloyd R. Day, Jr. (*pro hac vice*)
David A. Madrid (*pro hac vice*)
Linda A. Sasaki-Baxley (*pro hac vice*)
DAY CASEBEER MADRID &
BATCHELDER LLP
20300 Stevens Creek Boulevard, Suite 400
Cupertino, CA 95014
Telephone: (408) 873-0110
Facsimile: (408) 873-0220
Emails: daylr@daycasebeer.com
 madriddm@daycasebeer.com
 baxleyls@daycasebeer.com

William G. Gaede, III (*pro hac vice*)
McDERMOTT WILL & EMERY
3150 Porter Drive
Palo Alto, CA 94304
Telephone: (650) 813-5000
Facsimile: (650) 813-5100
Email: wgaede@wme.com

D. Dennis Allegretti (BBO#545511)
Michael R. Gottfried (BBO#542156)
Patricia R. Rich (BBO# 640578)
DUANE MORRIS LLP
470 Atlantic Avenue, Suite 500
Boston, MA 02210
Telephone: (617) 289-9200
Facsimile: (617) 289-9201
Emails: ddallegretti@duanemorris.com
 mrgottfried@duanemorris.com
 prich@duanemorris.com

Kevin M. Flowers (*pro hac vice*)
Thomas I. Ross (*pro hac vice*)
MARSHALL, GERSTEIN & BORUN LLP
233 South Wacker Drive
6300 Sears Tower
Chicago IL 60606
Telephone: (312) 474-6300
Facsimile: (312) 474-0448
Emails: kflowers@marshallip.com
 tross@marshallip.com


Odetta Cohen