

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,

Plaintiff,

v.

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

Defendants.

Civil Action No.: 05-12237 WGY

**AMGEN INC.'S MOTION TO STRIKE THE ODP TESTIMONY OF  
ROCHE'S EXPERT THOMAS KADESCH THAT WAS NOT  
PREVIOUSLY DISCLOSED IN ANY OF HIS THREE EXPERT REPORTS**

In support of its obviousness-type double patenting case, Roche offered the expert testimony of Dr. Thomas Kadesch. Although he submitted three expert reports on behalf of Roche, Dr. Kadesch's ODP Hearing testimony was not contained within any of those reports. Amgen therefore moves to strike Dr. Kadesch's previously undisclosed expert testimony. In accordance with the Court's request that Amgen file a brief containing its objections, Amgen requests that at least the following testimony be stricken:<sup>1</sup>

CITE	BASIS FOR STRIKING TESTIMONY
7:9-12	Not disclosed in expert report(s).
10:18-19	Not disclosed in expert report(s).
11:1-4	Not disclosed in expert report(s).
11:13-21	Not disclosed in expert report(s).
12:24 – 13:16	Not disclosed in expert report(s).
18:25 – 19:18	Not disclosed in expert report(s).

<sup>1</sup> 10/1/07 Daily Tr. of Hr'g in re Obviousness-Type/Double Patenting (Vol. 1), attached hereto as Ex. 1.

Dated: October 2, 2007

Respectfully Submitted,

AMGEN INC.,  
By its attorneys,

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**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

I certify that counsel for the parties have conferred in an attempt to resolve or narrow the issues presented by this motion and no agreement was reached.

/s/ Michael R. Gottfried

Michael R. Gottfried

**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 and paper copies will be sent to those indicated as non-registered participants on October 2, 2007.

/s/ Michael R. Gottfried

Michael R. Gottfried