

**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.: 1:05-CV-12237 WGY

**OPPOSITION TO MOTION *IN LIMINE* TO PRECLUDE AMGEN'S EXPERT
DR. TORCHILIN FROM OFFERING TESTIMONY ON LITERAL INFRINGEMENT
OR INFRINGEMENT UNDER THE DOCTRINE OF EQUIVALENTS**

Roche cannot preclude Dr. Torchilin from testifying on the opinions in his First, Third and Fourth Reports which address Roche's infringement of the Lin process patents under 35 U.S.C. §271(g). Dr. Torchilin's three reports opine on the material change requirement for infringement under Section 271(g), and Roche admits it cannot preclude these infringement opinions from Dr. Torchilin's three reports.

Roche's motion to preclude Dr. Torchilin from testifying regarding literal infringement and infringement under the doctrine of equivalents is also moot because Dr. Torchilin will testify within the scope of his First, Third, and Fourth Expert Reports, and within the scope of his Second Expert Report to the extent that Report was specifically incorporated by reference into his Third and Fourth Reports. As such, Dr. Torchilin will confine his opinions to scope of his expert reports on infringement.

CONCLUSION

For the foregoing reasons, Roche's motion to preclude Dr. Torchilin from offering opinions on infringement should be denied.

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the Electronic Case Filing (ECF) system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on the above date.

/s/ Michael R. Gottfried

Michael R. Gottfried