

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

| | | |
|----------------------------|---|----------------------------------|
| _____ |) | |
| AMGEN INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | CIVIL ACTION No.: 05-CV-12237WGY |
| F. HOFFMANN-LA ROCHE LTD |) | |
| ROCHE DIAGNOSTICS GmbH |) | |
| and HOFFMANN-LA ROCHE INC. |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

[DEFENDANTS' AMENDED PROPOSED] JURY VERDICT

Defendants respectfully submit this Amended Proposed Verdict Form. Note for Court: Roche respectfully submits this Amended Jury Verdict Form to account for rulings made by the Court to date and the evidence adduced at trial. Roche reserves the right to further amend its Proposed Jury Verdict Form based on further rulings by the Court and further evidence.

1. Considering each claim separately, has Roche demonstrated by clear and convincing evidence that each of the following claims is invalid?

(Please place a check mark “√” in the box that reflects your verdict. A check mark in the “Yes” column is an answer for Roche, and a check mark in the “No” column is an answer for Amgen.)

| VALIDITY | | |
|--------------------------------------|--------------------|------------------|
| | Invalid (Roche) | Valid (Amgen) |
| U.S. Patent No. 5,955,422 | | |
| Claim 1 | | |
| U.S. Patent No. 5,441,868 | | |
| Claim 1 | | |
| Claim 2 | | |
| U.S. Patent No. 5,618,698 | | |
| Claim 6 | | |
| Claim 7 | | |
| Claim 8 | | |
| Claim 9 | | |
| U.S. Patent No. 5,756,349 | | |
| Claim 7 | | |
| U.S. Patent No. 5,547,933 | | |
| Claim 3 | | |
| Claim 7 | | |
| Claim 8 | | |
| Claim 9 | | |
| Claim 11 | | |
| Claim 12 | | |
| Claim 14 | | |

2.a. Considering each claim separately, has Amgen demonstrated by a preponderance of the evidence that Roche’s MIRCERA® product infringes each element of the following claims?

(Please place a check mark “√” in the box that reflects your verdict. A check mark in the “No” column is an answer for Roche, and a check mark in the “Yes” column is an answer for Amgen.)

2.b. If you find no literal infringement for any claim of the ‘933 patent, only then should you go on to answer this question for that claim in the column for Infringement by “Doctrine of Equivalents.”

(Please place a check mark “√” in the box that reflects your verdict. A check mark in the “No” column is an answer for Roche, and a check mark in the “Yes” column is an answer for Amgen.)

| | Literal Infringement | | Doctrine of Equivalents | |
|----------------------------------|----------------------|-------------|-------------------------|-------------|
| | No (Roche) | Yes (Amgen) | No (Roche) | Yes (Amgen) |
| U.S. Patent No. 5,547,933 | | | | |
| Claim 3 | | | | |
| Claim 7 | | | | |
| Claim 8 | | | | |
| Claim 9 | | | | |
| Claim 12 | | | | |
| U.S. Patent No. 5,441,868 | | | | |
| Claim 1 | | | | |
| Claim 2 | | | | |
| U.S. Patent No. 5,618,698 | | | | |
| Claim 6 | | | | |
| Claim 7 | | | | |
| Claim 8 | | | | |
| Claim 9 | | | | |
| U.S. Patent No. 5,756,349 | | | | |
| Claim 7 | | | | |

3. Did Roche demonstrate by clear and convincing evidence that the patents-in-suit are unenforceable because Amgen engaged in inequitable conduct before the US Patent and Trademark Office?

(Please place a check mark “√” in the box that reflects your verdict. A check mark in the “Yes” column is an answer for Roche, and a check mark in the “No” column is an answer for Amgen.)

_____ Yes

_____ No

Foreperson

Date _____

Dated: October 12, 2007
Boston, Massachusetts

/s/ Julia Huston
Lee Carl Bromberg (BBO# 058480)
Julia Huston (BBO# 562160)
Keith E. Toms (BBO# 663369)
Nicole A. Rizzo (BBO# 663853)
Kimberly J. Seluga (BBO# 667655)
Emily J. Schaffer (BBO# 653752)
BROMBERG & SUNSTEIN LLP
125 Summer Street
Boston, MA 02110
Tel. (617) 443-9292
jhuston@bromsun.com

Leora Ben-Ami (*pro hac vice*)
Mark S. Popofsky (*pro hac vice*)
Patricia A. Carson (*pro hac vice*)
Thomas F. Fleming (*pro hac vice*)
Howard S. Suh (*pro hac vice*)
Peter Fratangelo (BBO# 639775)
KAYE SCHOLER LLP
425 Park Avenue
New York, NY 10022
Tel: (212) 836-8000

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 (NEF). Pursuant to agreement of counsel dated September 9, 2007, paper copies will not be sent to those indicated as non registered participants.

/s/ Julia Huston
Julia Huston

03099/00501 755075.1