

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’ MOTION FOR RECONSIDERATION FOR ORDER REQUIRING
PLAINTIFF TO FILE UNDER SEAL DOCUMENTS CONTAINING DEFENDANTS’
CONFIDENTIAL AND TRADE SECRET MATERIALS**

Defendants F. Hoffmann-La Roche Ltd, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively “Roche”) submit this memorandum in support of their motion, pursuant to Local Rule 7.2, for reconsideration for an order requiring Plaintiff Amgen Inc. (“Amgen”) to file under seal certain documents which contain Roche’s confidential and trade secret materials and which Amgen seeks to file in the public record.¹

The Exhibits and excerpts from the Exhibits which Roche requests that the Court order Amgen to file under seal are the following:

- a) Draft and/or excerpts of the BLA or IND and Roche internal documents relating thereto, containing blueprints for replicating Roche’s 50-3821 molecule and/or testing and validation processes (Exhibits 8, 12, 14, 19, 20, and 27 to the Carter Declaration);

¹ The documents and information Amgen seeks to file are incorporated into and attached as exhibits to the unredacted versions of its Memorandum Of Points And Authorities In Support Of Its Motion To Compel Production Of Documents (Redacted Version) (Docket No. 174) (superseding Docket No. 166) (Amgen’s “Memorandum”) and the Declaration of Krista M. Carter In Support Of Plaintiff Amgen Inc.’s Memorandum In Support Of Its Motion To Compel (Redacted Version) (Docket No. 177) (superseding Docket No. 167) (the “Carter Declaration”).

b) Analysis of Roche's drug development activities and strategy (Exhibits 6 and 7² to the Carter Declaration);

(c) References to highly sensitive, confidential information regarding Roche's clinical trials and to excerpts of the BLA and INDs in the Carter Declaration (pp. 13, 15³, 19-20).

While Roche maintains its position that all of the exhibits identified in the Declaration Of Patricia Rocha-Tramaloni In Support Of Emergency Motion For Order Requiring Plaintiff To File Under Seal Documents Containing Defendants' Confidential And Trade Secret Material (Docket No. 180) contain highly confidential, trade secret materials, in the interest of narrowing the issue, Roche is limiting its current motion to those documents which, if revealed would be the most damaging to Roche. Grounds for this motion are detailed in the accompanying Memorandum and Declarations of Richard Beswick and Krishnan Viswanadhan, which set forth a detailed description of the information constituting trade secrets in the Exhibits at issue, in addition to the Memorandum and Declaration filed by Roche on 12/19/06 (Docket Nos. 181 and 180).

A proposed order of impoundment regarding all documents filed under seal pursuant to the Motion and Local Rule 7.2 is attached as Exhibit A.

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.

² Each of the Exhibits at issue will be submitted in a sealed envelope to the Court for its consideration, per the Court's Order of 12/21/06.

³ Pages 13 and 15 of the Carter Declaration contain screenshots of the BLA including substantive text and therefore will be submitted for the Court's consideration in a sealed envelope, along with the rest of the Exhibits at issue. Pages 19-20 are excerpts from the Exhibits and therefore are not separately submitted for the Court's consideration.

DATED: Boston, Massachusetts
December 22, 2006

Respectfully submitted,

F. HOFFMANN-LA ROCHE LTD,
ROCHE DIAGNOSTICS GMBH, and
HOFFMANN-LA ROCHE INC.

By its Attorneys,

/s/ Nicole A. Rizzo

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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) and paper copies will be sent to those indicated as non registered participants on the above date.

/s/ Nicole A. Rizzo

Nicole A. Rizzo

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