

## **EXHIBIT 4**

DAY CASEBEER  
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December 14, 2006

VIA EMAIL & FACSIMILE

Howard Suh, Esq.  
Kaye Scholer LLP  
425 Park Avenue  
New York, NY 10022-3598

**Re: *Amgen Inc. v. F. Hoffmann LaRoche Ltd., et al.* (05-CV-12237WGY)**

Dear Howard:

Per our discussion on December 11, 2006, Amgen agrees that it will not assert a claim of infringement against Roche for making, importing and producing to Amgen samples of its EPO, peg-EPO and cell lines, as requested in Amgen's First Set of Requests for Production Nos. 2-4 and 11-13 propounded on October 30, 2006.

Amgen agrees to treat the samples produced by Roche as though they were Highly Confidential Material pursuant to the pending Protective Order in this case, thereby limiting the access to outside counsel of record, experts and consultants, and their respective support staff as well as requiring that any use made of the samples be solely for purposes of this litigation.

Very truly yours,

DAY CASEBEER  
MADRID & BATCHELDER LLP



Krista M. Carter

KMC/rlp

cc: Deborah Fishman, Esq.  
Michele Moreland, Esq.  
Thomas F. Fleming, Esq.