

## **EXHIBIT 6**

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January 3, 2007

VIA EMAIL & FACSIMILE

Pat Carson, 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 Pat:

I write regarding our call today on Roche's responses to Amgen's Requests for Admission. I must tell you that I am disappointed by the lack of progress made by Roche since our call on Friday and, more generally, with Roche's continued delays in providing fulsome responses to these Requests that were served nearly two months ago.

Last Friday, you agreed to reconsider Roche's positions on its Responses to Amgen's Requests for Admission and to provide Amgen with answers by today. On our call today, you simply delayed providing any response by suggesting instead that Roche file supplemental answers to Amgen's Requests on Friday, January 12 – three and a half weeks after your initial response was due.

Roche's continual delays and stalling tactics are particularly disturbing given the impending fact discovery cut-off. Roche's responses to Amgen's Requests for Admission came due on December 20. On that same day, Amgen wrote to Roche to request an immediate meet and confer regarding Roche's non-answers to each of Amgen's 22 Requests for Admission. (12/20 K. Carter letter to T. Fleming) Roche begged-off meeting and conferring and pushed any such call until after the holidays. Ultimately, due to scheduling conflicts on your end, we did not discuss Roche's responses until December 29. (12/26/06 H. Suh e-mail to K. Carter; 12/28/06 P. Carson e-mail to D. Fishman; 12/28/06 D. Fishman to P. Carson) Notably, during our December 29 call, you refused to take any position or make any concession and made clear that you would not do so until consulting with your client, but agreed to provide me with answers today.

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As you can imagine, given the anticipation, I was quite disappointed by your failure to provide answers to me on our call of today.

Notwithstanding that fact, in light of your repeated representations that you would revisit and provide fulsome responses to Amgen's Requests for Admission, I agreed to allow Roche additional time to supplement its Responses to Amgen's Requests for Admission until noon P.S.T. on Monday, January 8. To be clear, however, your failure to provide us with supplemental responses by noon on Monday will be taken as an outright refusal by Roche to do so.

### Amgen's Definitions

You began the call by asking for clarification on Amgen's definition of "RO-0503821." We agreed that "RO-0503821" could be defined as the formulated product for which Roche was currently seeking FDA approval. As I reiterated on our call, Amgen's Instructions (Instruction #3) direct Roche to assume a reasonable meaning for any term in Amgen's Requests that it believes is unclear and to respond to the request based on that meaning. To the extent that Roche is unable to do so and requires clarification from Amgen, Roche should timely have sought clarification when it filed its responses (on December 20), not two weeks later after the parties have met and conferred on the subject.

In any event, based on this clarification, you assured me that Roche would revisit and would either admit or deny (or admit-in-part and deny-in-part) a number of Amgen's Requests for Admission. Likewise, you withdrew your objection to the use of the term "comprises" inasmuch as that term relates to RO-0503821. As discussed above, Roche's supplementation in this regard must be provided to Amgen by noon P.S.T. on Monday, January 8, 2007.

### Claim Terms

During our call, you first maintained your objection and refusal to answer Amgen's Requests for Admission that incorporate terms or phrases used in Amgen's patents (Nos. 2-15 and 17-22) based on the assertion that these were not the appropriate subject matter for a Request to Admit. However, you reversed your position during the course of our call and agreed that you would supplement your responses to Amgen Requests that include terms used in Amgen's claims. Nonetheless, you could not identify which RFAs or how many RFA Responses would be impacted by your change of position.

In addition to your agreement to supplement Roche's responses to Amgen's RFAs that incorporate claim terms, you agreed that Roche would supplement its responses to each Amgen Request for Admission that includes the phrased "uses/used EPO to make..." You clarified that

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where Roche agrees to supplement its responses it will either admit, deny, or admit-in-part and deny-in-part in response to each Amgen Request for Admission. Roche's supplementation must be provided to Amgen by noon P.S.T. on Monday, January 8, 2007.

**Cell Line**

Finally, with respect to Roche's cell line(s), you did not agree that Roche would produce its cell line, but you also resisted refusing such production. Instead, you suggested that Amgen should provide Roche with the information it hoped to gain from the cell line and that Roche would then try to find other ways in which to provide that information to Amgen. As I made clear on our call, your suggestion at this late date is totally inappropriate.

Amgen's requests for Roche's cell line(s) (RFPs 11-13) have been pending since October 30. At no time has Roche disputed that this discovery is both relevant and appropriate under Rules 26 or 34. And at no point has Roche sought a protective order that would relieve it of its obligation to produce this relevant and responsive discovery.

The history of this issue is well-worn, but bears repeating here. On December 11, I met and conferred with Howard Suh, who agreed to would consult with your client that very day to reach an accommodation on the production of Roche's cell lines in response to Amgen's RFP Nos. 11-13. By letter dated December 13, he once again confirmed that he was discussing the production of samples responsive to Amgen's Request for Production Nos. 11-13 with your client, subject to an appropriate non-assert agreement. On December 14, I sent a letter to Howard seeking confirmation that the cell lines would be produced, enclosing a non-assert agreement from Amgen. I heard nothing in response. On Friday, December 29, I asked you or Howard to provide me with a response by today – either agreeing or refusing to produce Roche's cell line(s) in response to Amgen's RFP Nos. 11-13.

Today, you refused to take a position as to whether or not Roche would produce its cell line(s). Your refusal to take a position on the production of undeniably relevant discovery appears to be a game you are playing in order to deprive Amgen of discovery in a timely fashion. This stalling tactic is unacceptable. As I stated on our call today, if Roche does not agree to produce its cell line by the close of business tomorrow, we will take that to be a refusal by Roche to produce this discovery and will seek the Court's intervention to resolve this issue.

**Discovery Schedule**

In addition, on our call today, you broached the subject of extending the time for each party to

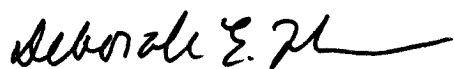
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serve additional Requests for Production. Please put your proposal for changing the discovery schedule in writing and we will consider you suggestions.

Very truly yours,

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Deborah E. Fishman

DEF:rlp

cc: Howard Suh  
Thomas F. Fleming  
Michele Moreland  
Mark Israelewicz