

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN INC.,)
)
 Plaintiff,)
)
 v.)
)
 F. HOFFMANN-LA ROCHE LTD,)
 ROCHE DIAGNOSTICS GMBH,)
 and HOFFMANN-LA ROCHE INC.,)
)
 Defendants.)

CIVIL ACTION No.: 05-CV-12237WGY

**DEFENDANTS’ MOTION TO FILE UNDER SEAL A DOCUMENT CONTAINING
DEFENDANTS’ CONFIDENTIAL AND TRADE SECRET MATERIALS**

Defendants F. Hoffmann-La Roche Ltd, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively “Roche”) respectfully move, pursuant to the Protective Order, to file under seal a document which contains Roche’s confidential and trade secret materials and which Amgen seeks to file in the public record.¹

As set forth in greater detail in the accompanying Memorandum and Declaration of Dr. Reinhard Franz, Head of Pharmaceutical Biotech Technical Development Fermentation within the Pharmaceutical Biotech Production at Roche Diagnostics GmbH, the Roche document which Amgen seeks to file in the public record is a copy of Defendants’ Supplemental Responses to Amgen Inc.’s First Set of Requests for Admission (Nos. 1-22) (“RFAs”). This document includes excerpts from Roche’s highly sensitive, confidential Biologics License Application

¹ The document Amgen seeks to file was submitted to the Court in a sealed envelope for *in camera* review on January 10, 2007, and was returned to counsel for Amgen on January 17, 2007, and corresponds to Exhibit 5 of Amgen’s Declaration of Deborah E. Fishman in Support of Plaintiff’s Memorandum in Support of its Motion to Compel Production of Roche’s Cell Line (Docket No. 224). Roche would be pleased to resubmit this document for *in camera* inspection if the Court so requires.

(“BLA”) regarding the particular chemical synthesis of Roche’s unique product and the recombinant CHO cell line which produces EPO.

Exhibit 5 is not necessary for the Court to decide the issues in Amgen’s motion and for this reason, Roche requests that the document not be accepted for filing at all. However, if the Court deems this document to be necessary for the disposition of Amgen’s motion, then Roche respectfully requests the entire document to be filed under seal, but if not the entire document, then at least the portions contained at pages 22-27 and 29-35 (RFA Nos. 15-17 and 19-22), all of which contain excerpts of trade secret information from Roche’s BLA.

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 counsel for Amgen has agreed not to oppose this motion.

DATED: Boston, Massachusetts
January 17, 2007

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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