

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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AMGEN INC., )  
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 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 F. HOFFMANN-LA ROCHE LTD, )  
 ROCHE DIAGNOSTICS GmbH, and )  
 HOFFMANN-LA ROCHE INC. )  
 )  
 Defendants. )

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CIVIL ACTION No.: 05-CV-12237WGY

**DEFENDANTS’ MOTION TO COMPEL  
THE PRODUCTION OF DOCUMENTS**

Defendants F. Hoffmann-La Roche Ltd, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively “Roche”) respectfully move pursuant to Rule 37(a) of the Federal Rules of Civil Procedure and L.R. 37.1 for the Court to compel production of the documents requested in “Defendant’s First Set Of Requests for The Production Of Documents And Things to Amgen Inc. (Nos. 1-123).”

Roche respectfully requests that the Court Order Amgen to produce documents responsive to:

1. Roche’s Document Request Nos. 61 and 62, particularly documents concerning Amgen’s share of sales in the markets Roche has alleged.
2. Roche’s Document Request No. 63, particularly documents concerning the structure or parameters of the markets for ESA (erythropoiesis stimulating agents) products.

3. Roche's Document Request No. 64, particularly documents concerning the entry, potential entry, and barriers to entry of ESA products into the market(s) for ESA products.
4. Roche's Document Request Nos. 65, 66, and 69, particularly documents concerning Amgen's business and strategic plans, market and price analyses and projections.
5. Roche's Document Request Nos. 42, 43, 61-66, 69, 114, 115, and 116, particularly documents concerning ESAs sold for oncology indications.
6. Roche's Document Request Nos. 70-72 and 74, particularly data concerning Amgen's sales, prices, costs, and profits in native format from January 1, 2000 forward.
7. Roche's Document Request No. 114, particularly documents concerning contracts between Amgen and its customers for ESA products from January 1, 2003 forward.
8. Roche's Document Request Nos. 42 and 43, Amgen's litigations with Ortho Biotech, Inc.

For the reasons discussed in the Memorandum In Support Of Roche's Motion To Compel, Amgen should be compelled to produce documents related to the above-mentioned topics responsive to these requests.

**CERTIFICATE PURSUANT TO L.R. 7.1 AND 37.1**

I hereby certify that counsel for Roche conferred with counsel for plaintiff Amgen Inc. in a good faith effort to resolve or narrow the issues presented by this motion and that no agreement could be reached. I also certify that counsel for Roche has complied with the provisions of L.R. 37.1.

Dated: January 19, 2007  
Boston, Massachusetts

Respectfully submitted,

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

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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/ Keith E. Toms  
Keith E. Toms