

EXHIBIT 5

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 05-12237 WGY
)	
)	
F. HOFFMANN-LA ROCHE)	
LTD., a Swiss Company, ROCHE)	
DIAGNOSTICS GmbH, a German)	
Company and HOFFMANN-LA ROCHE)	
INC., a New Jersey Corporation,)	
)	
Defendants.)	

JOINT STIPULATION REGARDING PRODUCTION OF ROCHE’S CELL LINE

The parties to this action, by and through their counsel, stipulate and agree to the following:

1. In lieu of producing its production cell line DN2-3a3 in accordance with the Court’s order of January 23, 2007, and without waiving its right to assert that the claims of U.S. Patent No. 5,756,349 are invalid on any ground, Roche stipulates that its DN2-3a3 cells are “capable upon growth in culture of producing erythropoietin in the medium of their growth in excess of 1000 U of erythropoietin per 10⁶ cells in 48 hours as determined by radioimmunoassay.”
2. In exchange for this stipulation, Amgen agrees to withdraw its motion to compel production of Roche’s cell lines and to withdraw its requests for production on Roche’s cell lines. Likewise, in exchange for this stipulation, Roche agrees to withdraw its requests for production of any of Amgen’s cell lines.
3. In the event that either party advances a new argument regarding its cell line that requires testing or analysis of the other party’s cell line to meet or rebut such argument, each party reserves its right to renew its request for the other party’s cell line.

Dated: February 22, 2007

DEFENDANT, F. HOFFMANN-LA ROCHE LTD., ROCHE DIAGNOSTICS GMBH, AND HOFFMAN-LA ROCHE INC.

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Respectfully Submitted,
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PLAINTIFF AMGEN 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 and paper copies will be sent to those indicated as non registered participants on February 15, 2007.

/s/ Michael R. Gottfried
Michael R. Gottfried