

DAY CASEBEER
MADRID & BATCHELDER LLP

20300 Stevens Creek Blvd., Suite 400
Cupertino, CA 95014
Telephone: (408) 873-0110
Facsimile: (408) 873-0220

Deborah E. Fishman
(408) 342-4587
dfishman@daycasebeer.com

January 23, 2007

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-12237 WGY)*

Dear Howard:

Yesterday, the Court ordered Roche to produce the cell line(s) it uses to make the EPO starting material for MIRCERA and related documents. Given Roche's delays to date in producing its cell line, it is essential that Roche promptly comply with the Judge's Order in order for Amgen to have a reasonable expectation of being able to perform and validate the necessary testing on Roche's cell line in advance of preparing and submitting its expert reports.

As you will recall, Amgen first requested Roche's cell line almost three months ago, on October 30, 2006, in its Requests for Production Nos. 11-13. Those cells and related documents should have been produced on November 30, 2006. Instead, on the pretext of compromise, Roche delayed and ultimately denied Amgen this relevant discovery, forcing Amgen to move the Court to intervene on its behalf. To date, Roche has deprived Amgen of nearly two thirds of the time provided for fact discovery to investigate Roche's cells. Any further delay on Roche's part to comply with Amgen's discovery request, as ordered by the Court, severely compromises Amgen's ability to meet upcoming deadline agreed to by the parties and ordered by the Court.

With little more than two months remaining before the deadline for initial expert reports, it is critical that Roche provide Amgen with its cell line and related documents by no later than February 2, 2006 for Amgen to reasonably be able to test and validate such tests in advance of submission of expert reports. To that end, we request that you make all necessary arrangements and transmit

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Roche's cell line(s) to Dr. Ronald W. McLawhon at the following address on or before February 2, 2007:

University of Chicago Hospitals
Receiving Dock
5835 South Cottage Grove Avenue
Department of Clinical Chemistry
Room TW008
Chicago IL 60637

In addition, and in advance of the transmission of Roche's cell line, please produce documents and things sufficient to show how Roche stores and cultures its cell line to produce the EPO starting material of MIRCERA, including all directions, materials and instructions needed to store, thaw, prepare culture media, and maintain and grow its cell line in accordance with Roche's current manufacturing process (See Amgen's Request for Production No. 13).

Very truly yours,

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Deborah E. Fishman

DEF:rlp

cc: Thomas Fleming
Patricia Carson
Michele Moreland
Mark Israelewicz