

**ATTACHMENT B**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

AMGEN INC.,

Plaintiff,

v.

F. HOFFMANN-LA ROCHE LTD, a  
Swiss Company, ROCHE  
DIAGNOSTICS GMBH, a German  
Company, and HOFFMANN LA ROCHE  
INC., a New Jersey Corporation,

Defendants.

Civil Action No.: 1:05-cv-12237 WGY

**[Proposed] ORDER**

Before the Court are Defendants' Motion to Compel Deposition Testimony Under Rule 30(b)(6) and Plaintiff's Cross-Motion for a Protective Order. Based on the record and the motion papers submitted,

**IT IS HEREBY ORDERED**

Defendants' Motion to Compel Deposition Testimony is DENIED and Plaintiff's Cross-Motion for a Protective Order is GRANTED as follows:

Topic 1

Defendants must identify to Plaintiff within three days of the date of this Order no more than 200 pages of documents which identify specific efforts by Plaintiff to characterize human erythropoietin. Testimony on Topic 1 will be limited to the efforts identified in the 200 pages identified by Defendants.

Topic 2

Plaintiffs will provide a witness to testify on the identity and general role of Plaintiff's employees or agents involved in the prosecution of any of its EPO Patents in the U.S. or Europe and in any opposition proceeding or litigation in Europe. Additional testimony on representations, contentions or other statements made by any such employee or agent regarding the characterization of any recombinant human erythropoietin produced through mammalian cell expression shall be limited to characterizations contained in no more than 200 pages of documents identified to Plaintiff by Defendants within three days of the date of this Order.

Topic 3

Testimony on Topic 3 shall be limited to (1) the testimony of Fu-Kuen Lin on the examples described in the specification of the Asserted Patents that relate to the expression of human erythropoietin, as well as efforts to identify cells or tissue expressing or secreting erythropoietin, and (2) the testimony of Thomas Boone on expression in cell lines other than Amgen's cell line developed for production purposes from 1985 to 1995. Plaintiff is not obligated to prepare Dr. Lin on the details of each experiment set forth in the laboratory notebooks Amgen has produced.

Topic 4

Testimony on Topic 4 shall be limited to (1) the testimony of Fu-Kuen Lin on the specific examples described in the specification of the Asserted Patents that relate to the recombinant expression of erythropoietin as a glycoprotein, and (2) the testimony of Thomas Boone on the recombinant expression of glycoproteins other than erythropoietin prior to 1985. Plaintiff is not obligated to prepare Dr. Lin on the details of each experiment set forth in the laboratory notebooks Amgen has produced.

Topics 6 and 7

Testimony on Topics 6 and 7 shall be limited to the testimony of Fu-Kuen Lin on the specific examples described in the specification of the Asserted Patents that relate to the recombinant expression of erythropoietin as a glycoprotein. Plaintiff is not obligated to prepare Dr. Lin on the details of each experiment set forth in the laboratory notebooks Amgen has produced.

Topics 8, 9, 10, 26, and 27

Defendant shall not depose Plaintiff further on these Topics.

**SIGNED** this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Honorable William G. Young  
UNITED STATES DISTRICT JUDGE