

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 COMPEL PRODUCTION OF DOCUMENTS,
AND DEPOSITION TESTIMONY UNDER RULE 30(b)(6), RELATING TO
PEGYLATION AND ARANESP®**

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 documents and 30(b)(6) testimony relating to Aranesp® and Amgen’s pegylation of Aranesp® and “EPO products.” Amgen has placed Aranesp® and the pegylation of Aranesp® directly at issue in this case by contending that Aranesp® is an “EPO product” covered by the patents-in-suit, but has refused to provide complete discovery relating to these relevant subjects. Thus, Roche respectfully requests that Amgen be required to produce:

(1) A complete copy of its BLA for Aranesp® in the native format in which it was submitted to the FDA pursuant to Roche’s Requests for Production Nos. 24 and 25.

(2) Documents relating to the pegylation of Aranesp® or the pegylation of any other compounds which Amgen alleges are “EPO products” covered by the patents in suit pursuant to Roche’s Requests for Production Nos. 19, 20, 31, 33-35, and 105-112.

(3) A knowledgeable 30(b)(6) witness to testify to Topic 5 of Roche's First 30(b)(6) Notice of Deposition.

(4) The documents of Thomas Boone related to pegylated Aranesp® or the pegylation of any other compounds which Amgen alleges are "EPO products" covered by the patents in suit, pursuant to Roche's Requests for Production No. 35.

(5) Any other documents related to Amgen's work on "PEG-EPO" including without limitation Lab Notebooks #1938, # 2112 and #1041 that have not yet been produced, pursuant to Roche's Requests for Production Nos. 19, 20, 31, 33-35, and 105-112 and the Court's order of January 3, 2007.

In support of this motion, Roche relies upon the accompanying memorandum and the declaration of Keith E. Toms.

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 that no agreement was reached.

Dated: March 23, 2007
Boston, Massachusetts

Respectfully submitted,

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

By their Attorneys

/s/ Keith E. Toms

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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