

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	CIVIL ACTION No.: 05-CV-12237WGY
F. HOFFMANN-LA ROCHE LTD)	
ROCHE DIAGNOSTICS GmbH)	
and HOFFMANN-LA ROCHE INC.)	
)	
Defendants.)	
_____)	

**NOTICE OF SERVICE OF ALLEGEDLY CONFIDENTIAL DOCUMENTS
TO BE FILED IN SUPPORT OF DEFENDANTS’ MOTION TO COMPEL
PRODUCTION OF DOCUMENTS IMPROPERLY
WITHHELD ON GROUNDS OF PRIVILEGE**

Defendants F. Hoffmann-La Roche LTD, Roche Diagnostics GmbH and Hoffmann-La Roche Inc. (collectively, “Roche”) hereby certify, pursuant to the Protective Order dated February 7, 2007 [docket #274], that it served today, via hand-delivery, on plaintiff Amgen Inc.’s (“Amgen”) counsel, Michael R. Gottfried, at Duane Morris LLP and via overnight mail to Amgen’s counsel, William Gaede, III at McDermott, Will & Emery, the following documents which Amgen (not Roche) has identified as confidential:

1. Confidential Version of Memorandum in Support of Defendants’ Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege;
2. Allegedly Confidential Appendix A in Support of Defendants’ Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege;
3. Allegedly Confidential Appendix B, Exhibit 1 in Support of Defendants’ Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege;

4. Allegedly Confidential Appendix B, Exhibit 3 in Support of Defendants' Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege;
5. Allegedly Confidential Appendix B, Exhibit 6 in Support of Defendants' Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege;
6. Allegedly Confidential Appendix B, Exhibit 7 in Support of Defendants' Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege;
7. Allegedly Confidential Appendix B, Exhibit 8 in Support of Defendants' Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege; and
8. Allegedly Confidential Appendix C in Support of Defendants' Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege.

Roche believes the documents at issue are not confidential or trade secret material, but must nonetheless submit them for *in camera* inspection pursuant to the Protective Order because Amgen has unreasonably refused Roche's request to file the documents in the public record. The allegedly confidential materials comprise the prior testimony of the attorney who prosecuted Amgen's patents in suit, which effected a waiver of Amgen's attorney-client privilege as to certain categories of documents and information. It is necessary for the Court to review the testimony in order to assess whether a waiver has occurred.

Pursuant to paragraph 14 of the Protective Order, Amgen has four (4) Court days to seek leave of Court pursuant to Local Rule 7.2 if it seeks to have the Court deem such documents confidential and require their filing under seal. Roche will oppose any such motion within two (2) days.

Dated: March 27, 2007
Boston, Massachusetts

Respectfully submitted,

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

By their Attorneys,

/s/ Robert L. Kann
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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/ Robert L. Kann
Robert L. Kann