

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,)	
)	
Plaintiff,)	
)	Civil Action No.: 05 Civ. 12237 WGY
v.)	
)	
F. HOFFMANN-LAROCHE LTD.,)	
ROCHE DIAGNOSTICS GMBH, AND)	
HOFFMANN LAROCHE INC.,)	
)	
Defendants.)	

**AMGEN’S MOTION TO COMPEL ROCHE TO PRODUCE WITNESSES FOR
DEPOSITION UNDER RULE 30(B)(6) AND OTHER RELIEF**

Pursuant to Fed. R. Civ. P. 37(a)(2)(B) and 30(b)(6), Plaintiff Amgen Inc. ("Amgen") respectfully requests that this Court compel Defendants F. Hoffmann-La Roche Ltd., Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively "Roche") to designate witnesses for deposition on the topics enumerated in Amgen’s Fourth Notice of Deposition to Defendants Pursuant to Fed. R. Civ. P 30(b)(6). These topics are directed to the factual bases on which Roche is relying to support its allegations of patent invalidity and unenforceability and information which contradicts such allegations. Notably, a number of these topics are mirror-images of the Fed. R. Civ. P. 30(b)(6) topics served on Amgen by Roche, for which this Court, in its March 27, 2007 Order, compelled Amgen to produce Rule 30(b)(6) witnesses for deposition.

In response to Amgen’s Notice of Deposition, Roche refused to designate even a single witness. Instead, Roche has told Amgen that Amgen will have to rely on Roche’s expert reports to discover the bases for Roche’s defenses. Roche’s refusal to designate witnesses in response to Amgen’s Notice of Deposition under Rule 30(b)(6) is improper and has prevented Amgen from timely discovering the factual bases for Roche’s invalidity and unenforceability defenses. This

in turn impedes Amgen's ability to prepare expert rebuttal reports and to prepare for trial. Compelling Roche to designate witnesses for Amgen's 30(b)(6) deposition will not be sufficient to compensate Amgen for its lost discovery time in this case. Amgen therefore also requests, as additional relief, that its time for producing expert rebuttal reports be extended.

In support of this motion, Amgen submits a memorandum of law with exhibits.

DATED: April 2, 2007

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Respectfully Submitted,

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CERTIFICATE PURSUANT TO LOCAL RULE 7.1

I certify that counsel for the Plaintiff has attempted to confer with counsel for the Defendants, F. Hoffman-LaRoche Ltd., Hoffman LaRoche Inc. and Roche Diagnostics GmbH, in an attempt to resolve or narrow the issues presented by this motion and that no agreement could be reached.

/s/ Michael R. Gottfried
Michael R. Gottfried

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the Electronic Case Filing (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/ Michael R. Gottfried
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