

January 24, 2007

BY EMAIL and FAX

Deborah Fishman
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***Re: Amgen, Inc. v. F. Hoffman-La Roche Ltd, Roche Diagnostics GmbH,
and Hoffmann-LaRoche Inc., Civ. No. 05-CV-12237WGY, D. Mass***

Dear Deborah:

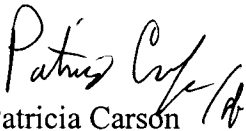
I write in response to the Court's order of January 23 regarding Roche's opposition to Amgen's motion to compel production of Roche's cell line, and your letter of yesterday to Howard Suh regarding production of Roche's cell line. As you know, the Judge treated Roche's Motion for Reconsideration on the cell line issue as an opposition to Amgen's motion. In addition to allowing Amgen's motion, the Court ordered Amgen to produce reciprocal discovery, hopefully without necessity of a motion to compel. Roche has identified Amgen cell lines that are relevant to this case, and which we expect Amgen to produce in concert with receiving Roche's cell line. Specifically, Defendants' Requests for Production 378-380 seek each cell line used by Amgen to produce erythropoietin covered by Amgen's EPO Patents, each cell line used by Amgen to produce Epogen®, and each cell line used by Amgen to produce Aranesp®. Requests 396-399 seek each cell line covered by the asserted claims of Amgen's EPO Patents that Amgen possessed in certain relevant time periods including on or before December 13, 1983, February 21, 1984, September 28, 1984, and November 30, 1984.

As you point out in your letter, the time for performing and validating testing on the cell lines is short, so the production of Amgen's cell lines must occur quickly and at the same time as production of Roche's cell line. Of course, Roche will require reciprocal information and documents regarding storage and culture of Amgen's cell lines as you request from Roche in your letter. Additionally, in your letter, you request that we send the sample of our cell line to the University of Chicago. We do not think this is appropriate as the University of Chicago has produced documents pursuant to subpoena in this case, and is a potential witness. We are available to discuss the specifics of the information transfer, plus the timing, place and manner of

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production of each parties' cell lines, including a discussion of the conditions for protection of the lines similar to those set forth in the Proposed Order submitted January 22 with Roche's Motion for Reconsideration, a copy of which is enclosed with this letter.

Very truly yours,


Patricia Carson

Enclosure

cc: Michele E. Moreland, Esq. (via fax w/out encl.)
Mark Izraelewicz, Esq. (via fax w/out encl.)
Julia Huston, Esq. (via fax w/out encl.)
Leora Ben-Ami, Esq. (via fax w/out encl.)