

Patricia A. Carson  
212 836-7466  
Fax 212 836-6335  
pcarson@kayescholer.com

425 Park Avenue  
New York, New York 10022-3598  
212 836-8000  
Fax 212 836-8689  
www.kayescholer.com

February 26, 2007

**VIA EMAIL & FAX**

Deborah E. Fishman, Esq.  
Day Casebeer Madrid & Batchelder LLP  
20300 Stevens Creek Blvd, Suite 400  
Cupertino, California 95014  
email: dfishman@daycasebeer.com

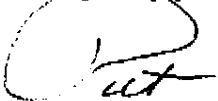
**Re: Amgen, Inc. v. F. Hoffmann-La Roche, Ltd., et al.**

Dear Deborah:

Further to our discussions and correspondence on Friday, February 23<sup>rd</sup>, Roche is planning on shipping a sample of its cell line via courier from Penzberg this week. We are using a courier in an effort to minimize delays at U.S. Customs. We fully expect that barring unforeseen circumstances, the sample will be in Amgen's expert's hands by Friday. I note that Amgen is unreasonably insisting on a "date certain" for production despite that fact that it is clearly not within Roche's control. Therefore, if our assurances do not satisfy Amgen we recommend that an appropriate representative from Amgen pick up the sample in Penzberg as originally proposed in my February 23<sup>rd</sup> e-mail to you.

Assuming that you prefer that Roche bear the burden of bringing the sample into the U.S., the courier will be directed to deliver the sample directly to Dr. McLawhon. I will therefore need you to provide the details for delivery, i.e., precisely where the sample should be delivered, who is authorized to sign for it and any forms that may be required by the University. In addition, before making any delivery we need Amgen's written agreement that the sample will be handled in accordance with the restrictions set forth in Amgen's attachment A to its motion to compel Roche's cell line filed on Friday.

Very truly yours,



Patricia Carson

cc: Thomas F. Fleming, Esq.  
Howard S. Suh, Esq.  
Julia Huston, Esq.  
Patricia R. Rich

31425665.DOC

**KAYE SCHOLER LLP**

From: Patricia Carson  
212 836-7466  
Fax 212 836-6355  
pcarson@kayescholer.com  
  
425 Park Avenue  
New York, New York 10022-3598  
212 836-8000  
Fax 212 836-8689  
www.kayescholer.com

**FAX**

**DATE:** February 26, 2007

**Total number of pages including this cover sheet:**

<b>DELIVER TO:</b>	<b>PRIMARY FAX NUMBER:</b>	<b>TELEPHONE NUMBER:</b>
Deborah Fishman	408-873-0220	408-873-0110
Michele Moreland	650-813-5100	650-813-5000
Mark Israelewicz	312-474-0448	312-474-6300
Patricia R. Rich	617-289-9201	617-289-9290
Julia Huston	(617) 443-0004	

If primary fax number is unreachable, contact the addressee's telephone number for alternate fax number? Y/N   n  

**IF YOU DO NOT RECEIVE ALL THE PAGES INDICATED ABOVE,  
PLEASE CALL US BACK AS SOON AS POSSIBLE AT: (212) 836-7466**

**NOTE:**

This facsimile transmission contains confidential and/or legally privileged information from the law firm Kaye Scholer LLP intended only for the use of the individual(s) named on the transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimile transmission is strictly prohibited. If you have received this transmission in error, please notify us by telephone immediately so that we can arrange for the return of the documents to us at no cost to you.

31392459.DOC

User #:0999

Client/Matter #: 34484/0002