

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,)
)
 Plaintiff,)
)
 v.)
)
 F. HOFFMANN-LA ROCHE LTD, a)
 Swiss Company, ROCHE DIAGNOSTICS)
 GMBH, a German Company, and)
 HOFFMANN LA ROCHE INC., a New)
 Jersey Corporation,)
)
 Defendants.)

Civil Action No.: 1:05-cv-12237 WGY

AMGEN INC.’S MOTION TO DEEM ITS OPPOSITION TO DEFENDANTS’ MOTION TO COMPEL PRODUCTION OF DOCUMENTS IMPROPERLY WITHHELD ON GROUNDS OF PRIVILEGE AND EXHIBIT 1 TO THE OPPOSITION CONFIDENTIAL

Pursuant to Local Rule 7.2 and Paragraph 14 of the Amended Protective Order, Amgen Inc., moves for the Court to deem Amgen Inc.’s Opposition to Defendants’ Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege (the “Opposition”) and Exhibit 1 to the Opposition, both of which were also filed with the Court on April 10, 2007, confidential and allow them to be filed under seal.

The Court should deem the Opposition and Exhibit 1 confidential and allow them to be filed under seal. Exhibit 1 is a chart containing Amgen’s rebuttal to Appendix A to Roche’s Motion, which is a chart that Roche’s counsel prepared containing summaries of confidential information from Appendix B to Roche’s Motion, which contains pages of deposition transcripts which Roche has asserted as attorney client privilege material. See Gaede Decl, ¶3. The Opposition is confidential because it contains excerpts of the information contained in Exhibit 1. As Amgen stated in its prior briefing on this issue, Amgen’s actions in seeking to file these documents under seal is done in an attempt to prevent the premature disclosure of privileged information (if Roche’s assertions are correct) into the public domain until the Court has decided Roche’s Motion to Compel.

WHEREFORE, Amgen respectfully requests the Court to allow the Opposition and Exhibit 1 thereto to be deemed confidential and filed under seal with the Court until such time as the Court has ruled on the underlying Motion to Compel.

April 10, 2007

Respectfully Submitted,
AMGEN INC.,

Of Counsel:

Stuart L. Watt
Wendy A. Whiteford
Monique L. Cordray
Darrell G. Dotson
Kimberlin L. Morley
Erica S. Olson
AMGEN INC.
One Amgen Center Drive
Thousand Oaks, CA 91320-1789
(805) 447-5000

/s/ Michael R. Gottfried
D. Dennis Allegretti (BBO# 545511)
Michael R. Gottfried (BBO# 542156)
Patricia R. Rich (BBO# 640578)
DUANE MORRIS LLP
470 Atlantic Avenue, Suite 500
Boston, MA 02210
Telephone: (617) 289-9200
Facsimile: (617) 289-9201

Lloyd R. Day, Jr. (*pro hac vice*)
DAY CASEBEER MADRID & BATCHELDER LLP
20300 Stevens Creek Boulevard, Suite 400
Cupertino, CA 95014
Telephone: (408) 873-0110
Facsimile: (408) 873-0220

William G. Gaede III (*pro hac vice*)
McDERMOTT WILL & EMERY
3150 Porter Drive
Palo Alto, CA 94304
Telephone: (650) 813-5000
Facsimile: (650) 813-5100

Kevin M. Flowers (*pro hac vice*)
MARSHALL, GERSTEIN & BORUN LLP
233 South Wacker Drive
6300 Sears Tower
Chicago, IL 60606
Telephone: (312) 474-6300
Facsimile: (312) 474-0448

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

Michael R. Gottfried

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 the issues presented by this motion and that Roche did not assent.

/s/ Michael R. Gottfried

Michael R. Gottfried