

APPENDIX A

Part 2 of 4

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		outside of the scope of the topic, as you've designated it.
		MR. JAGOE: Okay.
		So he's -- why is it outside the scope of a declaration in the U.S. prosecution as you've clarified the Lin patent -- of the Lin patent?
		DR. LOEB: You have to go back to your notice.
		MR. JAGOE: I'm going to ask a question, and you can answer it as a 30(b)(6) witness.
		If you object and instruct him not to answer it, you can instruct him not to answer it.
		DR. LOEB: I'm certainly not going to instruct him not to answer, but I will object if it's outside the scope of his 30(b)(6) testimony.
		You're entitled to ask him anything you want with respect to his personal capacity.
129	133:7-11	I'm asking you as Amgen's 30(b)(6) witness, what was the purpose of having you execute this declaration?
130	135:17-136:1	MR. JAGOE: I want to know what he meant in his declaration, or what Amgen meant in his declaration when they said GMP lots 514 and 516 were purified in accordance with the procedures of this patent. And I want to know what he's talking about and show me in the patent what he's talking about.
131	138:4-19	Were GMP lots 514 and 516 purified according to what's described in column -- in claim 10?
		DR. LOEB: Objection.
		It calls for a legal conclusion.
		It's also outside of the scope of the 30(b)(6) topic number 1.
		Another point that I didn't make

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		earlier, of course, is that we're proffering Dr. Strickland subject to all the objections that we made to your 30(b)(6) notice. MR. JAGOE: Are you saying that the purification of the material used in the declaration doesn't satisfy the experiments, in the definition of one of the experiments in the declaration? DR. LOEB: I'm saying that this question that you asked is outside the scope of the topic that Roche wrote.
132	139:6-9	And was the material in GMP lots 514 and 516 glycosylated? DR. LOEB: Objection. Lacks foundation.
133	139:14-18	And are GMP lots 514 and 516 biologically active? DR. LOEB: Objection. Calls for a legal conclusion and calls for expert testimony.
134	139:25-140:6	These lots met the specifications that the FDA required for you to use as clinical material; right? DR. LOEB: Objection. Lacks foundation. Calls for speculation. Calls for expert testimony. Outside of the scope of Roche's 30(b)(6) topic.
135	140:10-14	Amgen was intending for the Patent Office to rely on what you said in your declaration, to allow the Lin patents; right? DR. LOEB: Objection. Calls for a legal conclusion.
136	140:20-141:4	And when you said in your declaration that the material was prepared for FDA clinical-trial applications, you were implying that it was biologically active material that was going to be used as per clinical trial; right? DR. LOEB: Objection. Vague and ambiguous. Lacks foundation. And outside the scope of Roche's 30(b)(6) topic.
137	141:14-23	Thank you for that, but my question is a little different, and if it wasn't clear -- I'm asking you: Did Amgen intend for the Patent Office to believe that lots 514 and 516 were made for the purpose of using them in clinical applications? DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice. Asked and answered. Lacks foundation. Vague and ambiguous.
138	142:2-6	But what did you want the Patent Office to believe? DR. LOEB: Objection. Vague and ambiguous and calls for

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139	142:15-19	So these weren't rejected lots; right?	speculation. DR. LOEB: Objection. Outside the scope of the 30(b)(6) topic.
140	142:24-143:6	Did Amgen -- did Amgen intend for the Patent Office to believe that these were accepted spec lots of GMP material?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice. You can answer in your personal capacity, if you know.
141	143:13-21	And you're saying that lots that Amgen prepared for clinical use are prepared according to the description of the process in claim 10 of the '016 patent; right?	DR. LOEB: Objection. Mischaracterizes the witness's previous testimony. It calls for a legal conclusion, and is outside the scope of Roche's 30(b)(6) topic.
142	144:2-8	And the lots that you wanted the Patent Office to believe were representative lots were prepared by that method; right?	DR. LOEB: Objection. Mischaracterizes the witness's previous testimony. It's outside the scope of Roche's 30(b)(6) topics
143	144:14-18	And the erythropoietin in those lots is a glycosylated, biologically active erythropoietin; right?	DR. LOEB: Objection. Calls for a legal conclusion. And --
144	144:24-145:3	Do you ever remember any of Amgen's GMP lots testing negative for in vivo biological activity?	DR. LOEB: Outside the scope of the 30(b)(6) notice. Calls -- well, no.
145	145:7-16	So you're telling the Patent Office that if you practice the methods of the '016 patent, you'll be able to make glycosylated erythropoietin that's biologically active; right?	DR. LOEB: Objection. Calls for -- mischaracterizes the witness's previous testimony. Calls for speculation and is vague and ambiguous and is outside the scope of Roche's 30(b)(6) topics.
146	145:22-25	First of all, you're an inventor of the '016 patent; right?	DR. LOEB: Objection. Calls for a legal conclusion.
147	146:16-20	You have no doubt that you're an inventor of 4,667,016 patent; right?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) topics and calls for a legal conclusion.
148	146:25-147:8	And the other one is Dr. Lai we referred to earlier today; right?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) topics and calls for a legal conclusion.

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		And I just asked Dr. Strickland if you'd just pause for a moment to allow me a chance to interpose my objections.
149	147:10-14	R. LOEB: Objection. Outside the scope of the 30(b)(6) topics and calls for a legal conclusion.
150	147:20-148:4	DR. LOEB: Objection. Vague and ambiguous. Mischaracterizes the previous testimony. And -- carry on.
151	148:10-16	DR. LOEB: Objection. Mischaracterizes the previous testimony.
152	148:19-24	DR. LOEB: Objection. Mischaracterizes the testimony. Vague and ambiguous.
153	149:21-25	DR. LOEB: Objection. Mischaracterizes previous testimony.
154	150:3-11	DR. LOEB: Objection. Argumentative, number 1. And number 2, I think you're again straying outside the 30(b)(6) topic as defined by Roche.
155	150:16-21	DR. LOEB: Because it's outside the scope of your notice, and it's vague and ambiguous.
156	151:17-152:3	DR. LOEB: Objection. Outside -- well, first of all, it's an incomplete hypothetical. Calls for speculation. Calls for expert testimony, and it's outside the 30(b)(6) notice as defined by Roche. And is vague and ambiguous.
157	152:7-16	A Well, they --

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		same?	DR. LOEB: Wait, wait. Objection. It's also calling for expert testimony. It's calling for speculation. It's an incomplete hypothetical. And it is outside the 30(b)(6) notice that Roche has asked us to prepare Dr. Strickland about.
158	153:17-24	Can we have the last pending question back. (Record read by the reporter as follows:) "QUESTION: Why do you believe they would be the same?"	DR. LOEB: I make all the same objections.
159	154:20-25	Isn't it true you can only tell that by running the isoelectric-focusing experiment?	DR. LOEB: Objection. Calls for expert testimony. Speculation. Outside the scope of Roche's 30(b)(6) notice.
160	155:12-18	And do you have enough information to make that statement that EPO produced in COS cells would also have the same result?	DR. LOEB: Objection. Outside the scope of the notice. Calls for expert testimony. May call for speculation. Lacks foundation.
161	155:23-156:4	So it would be fair to interpret the results of your declaration as being limited to CHO- cell-produced material; right?	DR. LOEB: Objection. Outside the scope of the notice. Calls for expert testimony. And is vague and ambiguous. Calls for speculation.
162	156:9-15	And you don't have enough information to say, one way or the other, whether the same result would occur if you used COS-cell-produced EPO, for example?	DR. LOEB: Outside the scope of the notice. Calls for expert testimony. Vague and ambiguous and calls for speculation.
163	156:23-157:2	And how many amino acids of that 165 are modified?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice. Calls for expert testimony.
164	157:6-12	Do you know what a modified amino acid is?	A I've -- I -- I know what -- DR. LOEB: Wait, wait, wait. Objection. Outside the scope of the 30(b)(6) notice. Calls for expert testimony.

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165	158:4-9	And amino acids have defined structures; right?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice. Calls for expert testimony.
166	158:14-23	When a gene is expressed in a mammalian cell, a polypeptide of amino acid is formed; right??	DR. LOEB: Objection. Outside the scope of the 30(b)(6) topic. Calls for expert testimony. When you're outside the scope of the 30(b)(6) topic, you have to understand that you're not speaking for Amgen in any way, shape, or form when you answer his questions
167	159:4-9	And in nature, there are 20 possible amino acids that are used to make polypeptides; right?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice. Calls for expert testimony.
168	159:14-18	So how many amino acids are there that are in naturally occurring peptides?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice. Calls for expert testimony.
169	159:20-23	How many different kinds of amino acids?	A I don't know. DR. LOEB: Objection.
170	160:2-9	Do you know what the process is referred to in a cell where the RNA is turned into a polypeptide sequence? Does that have a term?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice. Calls for expert testimony. Vague and ambiguous.
171	161:20-162:1	Dr. Strickland, I want you to go back to the declaration, which was Strickland Exhibit 3 that we had been looking at before. Did you draft this declaration?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) topic.
172	162:5-9	Did you discuss the contents of this declaration with Dr. Lin, before you signed it?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) topic.
173	162:12-17	Did you do anything to -- in preparation for your deposition, to try and refresh your recollection about the drafting of the declaration?	DR. LOEB: Objection. Outside of the 30(b)(6) topic.
174	162:20-163:1	Did you do anything to refresh your memory about any discussions that you had with Dr. Lin, prior to -- prior to signing the declaration?	DR. LOEB: Objection. Outside the 30(b)(6) topic and also vague and ambiguous.

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175	163:16-22	I asked you did you do anything -- did you ever talk to Dr. Lin about the contents of the declaration, before you signed it, and you said you don't remember, right?	DR. LOEB: Objection. Mischaracterizes the testimony. Outside the scope of the 30(b)(6) notice.
176	164:3-11	I'm asking you: In preparation as a 30(b)(6) witness, did you do anything to help, or potentially help, refresh your memory about whether or not you discussed the contents of the declaration with Dr. Lin, before you signed it?	DR. LOEB: Objection. Outside of the 30(b)(6) notice. Asked and answered. And vague and ambiguous.
177	165:11-16	Were there any drafts of this declaration created, before it was finalized and signed by you?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice.
178	166:6-10	Do any drafts of this declaration still exist?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice.
179	166:13-18	In preparing for the deposition, did you do anything to look for drafts of this declaration?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice.
180	166:21-167:8	Who decided what the contents of this declaration would be?	DR. LOEB: I'd have to instruct the witness not to answer, on the basis of privilege and work product. THE WITNESS: I don't know about the final content, but -- DR. LOEB: Well, I'm sorry. I instructed you not to answer the question -- THE WITNESS: Okay. DR. LOEB: -- because it involves the attorney-client privilege.
181	167:13-19	But you did have some information to -- that would be relevant to my question if you were able to answer -- if you weren't given that instruction, right?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice and vague and ambiguous.
182	168:5-9	Who decided to use the samples from GMP lots 514 and 516 in the experiments that are described in this declaration?	DR. LOEB: Objection. Outside the scope of the notice.

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183	169:8-11	The first one, the R-HuEPO (number 1), what does that sample represent?	DR. LOEB: Objection. Vague and ambiguous.
184	171:22-172:3	Dr. Strickland, have you identified the laboratory notebook that contains the gel that's described on page 4 of the declaration, that we've been looking at?	A Yes -- DR. LOEB: Objection. Vague and ambiguous.
185	173:23-174:3	The page where you think describes the work and the gel that's contained on page 4 of your declaration, is in which notebook?	DR. LOEB: Objection. Compound. Excuse me.
186	175:3-6	Now, are there any results in those notebooks for lot 516?	DR. LOEB: Objection. Vague and ambiguous.
187	176:7-13	Now, was there a similar gel run on lot 516?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) topics for which we've designated Dr. Strickland, which I believe are numbers 1 and 5 and 8.
188	177:12-18	Did you have any discussion -- was it your decision which gels to use in your declaration?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) topics for which Dr. Strickland has been identified -- designated.
189	177:21-178:4	The material that you did use, the 514 and the 516 materials, that material only represents a sample of the populations of isoforms that are produced by the CHO cells; correct?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) topic, vague and ambiguous, and calls for expert testimony.
190	178:9-13	And that's because they were purified by your patented method; correct?	DR. LOEB: Objection. Calls for expert testimony. Outside of the scope of the 30(b)(6) topics.
191	178:19-179:1	So then it's correct that the samples that you put in your declaration don't show all of the isoforms produced by the CHO cells; right?	DR. LOEB: Objection. Mischaracterizes the testimony. Outside of the 30(b)(6) notice and calls for expert testimony.
192	179:6-11	And you knew that at the time you filed this declaration with the Patent Office; right?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) topic.
193	179:15-19	And that information is not disclosed anywhere in the declaration; right?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6)

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194	179:23-180:2	And is that information described in the '016 patent itself?	topic. DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice and calls for expert testimony.
195	180:11-20	Was the Patent Office advised in any way that the recombinant EPO sample that you were using in the experiments, in your declaration, was only a subset of the possible -- of -- strike the "possible" -- of the isoforms produced by the CHO cells by Dr. Lin's method?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) topic and calls for speculation.
196	181:13-20	Why wasn't the Patent Office informed in the declaration itself that the recombinant EPO samples that were being used were only a subset of all of the EPO isoforms produced by the CHO cells in Dr. Lin's patent?	DR. LOEB: Objection. Calls for speculation and is outside of the 30(b)(6) topic.
197	182:5-9	And so you made a decision that that was not important to tell the Patent Office?	DR. LOEB: Objection. Mischaracterizes the testimony. Outside of the scope of the 30(b)(6) notice.
198	182:12-16	Well, is that your conclusion today, or was that your conclusion in 1988, when you signed your declaration?	DR. LOEB: Objection. Outside of the scope of the notice.
199	182:20-23	And do you know what your conclusion was in 1988, before signing your declaration?	DR. LOEB: Objection. Outside of the scope of the notice.
200	183:2-9	In 1988, before signing your declaration, did you know that the Lai and Strickland purification method would be selecting for the highest isoforms of the CHO-cell-produced material?	DR. LOEB: Objection. Outside the scope of the notice, vague and ambiguous.
201	184:9-14	And would this be a memo that you created in the course of your business dealings at -- within Amgen?	A Yes. DR. LOEB: This is outside of the scope of the 30(b)(6) notice.
202	185:21-186:2	Were you expressing a concern about changing the purification method away from the method of the Lai and Strickland purification system?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice and lacks foundation.
203	186:9-14	And you thought if the new resin	DR. LOEB: Objection.

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		selected a different population, you would get different properties?	Mischaracterizes the witness's testimony.
204	186:23-187:6	And nowhere in your declaration do you tell the Patent Office that EPO synthesized by CHO cells is a mixture of molecules containing different carbohydrate structures and that your sample is only a sample on a -- on a population of those isoforms, do you?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice.
205	187:12-18	But it's not in the declaration that the sample you're using in the experiments is only a subpopulation of those molecules; right?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice and mischaracterizes the witness's testimony.
206	187:23-188:4	But you knew that it was only a sub-population of the EPO molecules prepared by -- produced by CHO cells; right?	A Yes. DR. LOEB: Objection. Miss -- sorry. Outside of the scope of the notice.
207	188:8-188:13	Does it say anywhere in this memo that it's selecting for the most negative fractions?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice.
208	189:5-10	Isn't it true that you filed a patent application saying that CHO-cell-produced EPO has isoforms up above 14?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) topic and calls for a legal conclusion.
209	189:16-19	And that's in CHO-cell-produced material?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice.
210	189:23-190:6	So if that sample were put on a gel -- if that sample were run on the same gel as the one on page 4 of your declaration, you would have seen bands higher up than the ones you've shown in your gel; right?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice. Calls for expert testimony, and also calls for speculation.
211	190:16-23	And the point you're trying to make to the Patent Office is that the second column, the urinary EPO, has bands that are higher up on that gel; right?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice and mischaracterizes the witness's previous testimony.
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213	191:4-10	But there are other samples that you know of, of recombinant CHO-cell-produced EPO	DR. LOEB: Objection. Outside of the scope of the 30(b)(6)

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		that have more negative isoforms than are shown on this gel; right?	topic. Calls for expert testimony.
214	191:19-192:1	So you know that there are other samples of recombinant EPO that would be closer to urinary EPO than the sample that you have on this gel; right? Can you take this pen and mark where you think that band would come on that gel? A (Complies) Q Just put your initials next to it. Maybe the date, too, so you don't forget. A (Complies) The 9th? Q Yes.	DR. LOEB: Objection. Vague and ambiguous. Outside of the scope of the 30(b)(6) topic and calls for speculation. DR. LOEB: To the extent that that was a question, I object that it's outside the scope of the 30(b)(6) notice.
215	192:8-18		
216	192:22-193:2	When you signed the declaration in 1988, were you aware that CHO-cell-produced EPOs would have that higher isoform? And do you know the date that this document was created?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice.
217	193:14-18		DR. LOEB: I object as to outside the scope of the 30(b)(6) topics for which Dr. Strickland's been designated.
218	193:25-194:7	Now, can you confirm that the first three pages of this exhibit are just -- are the same thing? Duplicates? They appear to me to be duplicates. I'm asking you to confirm that by your inspection. And are the last two pages duplicates of each other?	DR. LOEB: Outside of the scope of the 30(b)(6) notice.
219	194:11-14		DR. LOEB: Outside of the scope of the 30(b)(6) notice.
220	195:1-5	So what do you understand this figure to be that's on the last page?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice.
221	195:13-17	So anything that's stained or dark is something that reacts with the EPO antibody?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice and calls for expert testimony.
222	195:23-196:3	So what other reason would something be stained if -- other than reacting with the EPO antibody, in this case?	DR. LOEB: Objection. Outside of the notice. Calls for speculation. Calls for expert testimony.

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223	196:18-22	So you identified on this gel 15 isoforms; right?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice.
224	197:4-10	So in the crude-cell cultured media, there are more negatively charged EPO isoforms than the ones that were on the gel in your declaration; right?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice. Calls for expert testimony.
225	197:17-24	So the answer is, yes, there are CHO-cell- produced EPO samples that have more negative isoforms than the sample that you put onto the gel in your declaration?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice and mischaracterizes the witness's previous testimony.
226	198:5-11	So the Patent Office wouldn't have known that there was an isoform 15, based on the information you gave them in your declaration; right?	DR. LOEB: Objection. Outside of the scope of the 30(b)(6) notice and calls for speculation.
227	198:16-199:1	And if you had included on the gel that you submitted to the Patent Office in your declaration, a sample of crude-cell-conditioned media, then there would have been a lane, something similar to what's on this page 00584013 that's labeled EPO-containing cell-conditioned media; right?	DR. LOEB: it's outside of the scope of the 30(b)(6) notice, but I think that's also very difficult to understand the question. I think maybe you want to rephrase.
228	199:10-14	Do you know if that gel is in one of your laboratory notebooks from Amgen?	DR. LOEB: Objection. Outside the scope of the 30(b)(6) notice designation.
229	199:18-21	And there are two samples being run on this gel; correct?	DR. LOEB: Outside of the scope of the 30(b)(6) notice.
230	200:1-6	And the left-hand column represents purified EPO; right?	DR. LOEB: Objection. Outside of the scope of the designation.
231	200:9-15	And the right-hand column represents nonpurified, cell-conditioned media; right?	DR. LOEB: Objection. Outside of the scope of the notice. If you just want to say it's a fact deposition we're doing now, I can stop making this objection every time
232	200:21-201:1	And there is no sample of unpurified-cell- conditioned media containing	DR. LOEB: Outside of the scope of the notice.