

EXHIBIT 9

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN, INC.,

Plaintiff,

v.

Civil Action No.
05-CV-12237-WGY

F. HOFFMANN-LA ROCHE, LTD.,
a Swiss Company, ROCHE
DIAGNOSTICS GmbH, a German
Company, and HOFFMANN LA
ROCHE, INC., a New Jersey
Corporation,
Defendants.

~~~~~

CONFIDENTIAL VIDEOTAPED  
DEPOSITION OF THOMAS WAYNE STRICKLAND  
VOLUME I  
LOS ANGELES, CALIFORNIA  
MARCH 9, 2007

(This transcript is  
designated CONFIDENTIAL as per  
Section 5(c) of the Amended  
Protective Order. Please treat  
the entire transcript in  
accordance with the protective  
order.)

Reported by: Harry Alan Palter, C.S.R. NO. 7708

1 Appearances:

2

3

For Plaintiffs:

4

Day Casebeer Madrid & Batchelder

5

By: Jonathan Loeb, Ph.D., Esq.

20300 Stevens Creek Boulevard

Suite 400

6

Cupertino, California 95014

408.342.4578 Fax 408.873.0220

7

E-mail: jloeb@daycasebeer.com

8

Amgen

9

By: Wendy A. Whiteford, Esq.

One Amgen Center Drive

Thousand Oaks, California

10

91320-1799

805.447.1008 Fax 805.447.1090

11

E-mail: wendy@amgen.com

12

For Defendants:

13

Kaye Scholer LLP

14

By: Christopher T. Jagoe, Esq.

Graham Pechenik, Esq.

15

425 Park Avenue

New York, New York 10022-3598

16

212.836.7203 Fax 212.836.8689

E-mail:

17

cjagoe@kayescholer.com

gpechenik@kayescholer.com

18

19

20

21

22

23

24

25

1   Appearances:

2

3           For Defendants:

4

Bromberg Sunstein LLP

By: Timothy M. Murphy, Esq.

5

125 Summer Street

Boston, Massachusetts 02110-1618

6

617.443.9292   Fax 617.443.0004

E-mail: tmurphy@bromsun.com

7

8           Also Present:

9

Adriane Castro, Videographer

10

11

12

13

14

15

16

17

18

19           VIDEOTAPED DEPOSITION OF THOMAS WAYNE

20   STRICKLAND, Volume I, taken at 1999 Avenue of

21   the Stars, 16th Floor, Los Angeles, California,

22   on Friday, March 9, 2007, from 9:10 a.m. to

23   7:00 P.M., before Harry Alan Palter, Certified

24   Shorthand Reporter No. 7708, in and for the

25   State of California.

1 THOMAS WAYNE STRICKLAND,  
2 having been duly administered an oath in  
3 accordance with California Code of Civil  
4 Procedure Section 2094, was examined and  
5 testified as follows:

6

7

8 THE VIDEOGRAPHER: Please begin.

9

10 EXAMINATION

11 BY MR. JAGOE:

12 Q Can you please state your full name  
13 for the record.

14 A Thomas Wayne Strickland.

15 Q And you are --

16 DR. LOEB: Before you get started,  
17 just a couple housekeeping points I'd like to  
18 make, if you don't mind.

19 First of all, as you know, we have  
20 offered Dr. Strickland both in his personal  
21 capacity and as to some limited 30(b)(6)  
22 topics. Because of the 30(b)(6), we've offered  
23 to continue the deposition for more than seven  
24 hours.

25 You've suggested that you'll make

1 your best effort to finish this evening. We're  
2 willing to go past 5:00 o'clock, certainly.

3 If absolutely necessary, we can  
4 continue for a couple hours tomorrow. But  
5 having offered these accommodations, we've made  
6 perfectly clear that we will not provide  
7 Dr. Strickland again later in the month.

8 I understand that you wish to begin  
9 with Dr. Strickland's personal deposition.  
10 That's fine, with the understanding that  
11 Dr. Strickland is not speaking for Amgen, until  
12 you've indicated that you're moving to a  
13 30(b)(6) deposition.

14 Lastly, your request, we have brought  
15 25 Amgen lab notebooks with us today. You're  
16 free to look at those as you wish. You may  
17 examine them, but you may not remove them from  
18 this room, nor may you tamper with the  
19 redactions that are present on some of the lab  
20 notebooks. You can ask for a specific lab  
21 notebook, and we'd be glad to give it to you at  
22 any time, but we'll take it back before we give  
23 you another one.

24 Note also that Roche has requested,  
25 and we have provided, more than a week ago, at

1 significant expense and effort, excellent color  
2 copies of many pages of Dr. Strickland's lab  
3 notebooks. And so you have had a chance to  
4 review very good copies for quite a while now  
5 and, therefore, we think that you've had an  
6 adequate opportunity to review Dr. Strickland's  
7 materials before this deposition.

8 MR. JAGOE: Well, I'll just make a  
9 quick response. Not that one is necessary, but  
10 it should be known that Dr. Strickland was  
11 noticed for deposition several weeks ago, and  
12 it was only on March 6th when you identified  
13 him as a 30(b)(6) witness, and it was only last  
14 night when you supplemented your Rule 26  
15 disclosures, identifying Dr. Strickland as a  
16 person having certain knowledge in certain  
17 areas.

18 And we agreed yesterday we would try  
19 to finish today. If we don't finish today, we  
20 will continue at another time.

21 It's not Amgen's decision whether or  
22 not Dr. Strickland will appear. That will be  
23 decided by the Court, if an agreement can't be  
24 reached.

25 So we'll proceed with the deposition.

1 than one notebook -- they weren't actual  
2 physical -- physically different entities.

3 And the -- with the subject matter of  
4 the -- the pegylation of EPO.

5 DR. LOEB: Chris, I don't mean to  
6 interrupt, but you're getting into talking  
7 about the 30(b)(6) preparation. Seems to me  
8 just for organizational purposes, why don't you  
9 leave that until you do a 30(b)(6) deposition.  
10 Otherwise we're going to be going back and  
11 forth between --

12 MR. JAGOE: Well, I think this way,  
13 it will work out all right.

14 If you see a big problem in the  
15 record that I'm making, then let me know. But  
16 I think this record will be clear.

17 BY MR. JAGOE:

18 Q So you reviewed certain  
19 photocopies -- excerpts of some of your lab  
20 notebooks; correct?

21 A The meeting with Mr. Gaede?

22 Q Right.

23 A Yes.

24 Q All these questions now are directed  
25 to your preparation, as the 30(b)(6) witness,



1 A The -- the meeting with Mr. Gaede?

2 Q Mr. Gaede and Mr. Loeb.

3 A Well, there was -- there were --  
4 there were other parts of the day other than  
5 that meeting, that were in preparation for  
6 the --

7 Q Okay.

8 Let's talk about just the part of the  
9 meeting that was in preparation for the  
10 30(b)(6) deposition.

11 DR. LOEB: Chris, before you  
12 continue, I want to point out that when you  
13 started asking Dr. Strickland about the subject  
14 matter of pegylation, it's now become unclear  
15 and ambiguous whether you're in 30(b)(6) mode  
16 or his personal mode. And that's what I don't  
17 want to have answered.

18 MR. JAGOE: Do you want that answer  
19 being on behalf of Amgen?

20 DR. LOEB: I'm comfortable with that  
21 answer being on behalf of Amgen. But I would  
22 prefer it if you made a clear separation  
23 between the 30(b)(6) and the personal  
24 deposition.

25 If you would prefer to do the

1 30(b)(6) first, I don't have a problem with  
2 that, either. Just do one or the other.

3 MR. JAGOE: I'm not going to break up  
4 the deposition total 30(b)(6), total personal.  
5 I think the questions now are clearly directed  
6 to 30(b)(6) topics in preparation for 30(b)(6)  
7 topics, and I -- it's my intention that all the  
8 questions right now go to that topic.

9 So if you think that I'm asking  
10 something that's not included in the 30(b)(6)  
11 topic you've designated him for, then you can  
12 make your statement, or save it for some other  
13 time to tell the judge. But I think my record  
14 is clear, and I can make my record the way I  
15 want.

16 BY MR. JAGOE:

17 Q So I'm talking now about the meeting  
18 that you had, in preparation for your 30(b)(6)  
19 topics, with Mr. Gaede and Mr. Loeb that  
20 occurred yesterday.

21 And you're telling me what documents  
22 you've reviewed.

23 And other than what you've already  
24 identified, can you recall reviewing any other  
25 documents?

1           If you think my question is unclear,  
2 then you can ask me to clarify, if I'm using a  
3 term that you don't think is -- you understand  
4 or is fitting, then please ask me to fix it  
5 before you answer the question.

6           A     Yes.

7           Q     Is there any reason that you can't  
8 give full and truthful answers today?

9           A     No.

10          Q     Are you under any medication?  
11                Are you taking any medication?

12          A     No.

13          Q     And do you have any medical or  
14 emotional problems that would prevent you from  
15 testifying honestly today?

16          A     No.

17          Q     Now, you received a Ph.D. in 1981?

18                DR. LOEB:   Okay.

19                Now I need to stop you.

20                Are we talking about his fact  
21 deposition or his 30(b)(6) deposition?

22                MR. JAGOE:   Fact.

23                You received a Ph.D. --

24                DR. LOEB:   I'm going to assume you're  
25 taking his fact deposition, until you tell me

1 Amgen units and not international units for  
2 in vivo activity?

3 DR. LOEB: Objection.

4 Calls for speculation. Assumes facts  
5 not in evidence.

6 THE WITNESS: I -- I don't have any  
7 specific recollection of that.

8 MR. JAGOE: Let's mark this document  
9 as Strickland exhibit -- what are we up to?

10 THE REPORTER: 19.

11 MR. JAGOE: 19?

12 (Exhibit 19 marked)

13 DR. LOEB: Chris, I'm afraid to say,  
14 it's 7:00 o'clock, and it's time for us to  
15 leave.

16 What time do you want to start  
17 tomorrow morning?

18 MR. JAGOE: I told you, we're not  
19 starting tomorrow morning. We're staying until  
20 we finish today.

21 DR. LOEB: No. We're leaving.

22 It's been 10 hours.

23 We arrived at 9:00 A.M., sharp, as  
24 you have requested.

25 And we have, very patiently, sat

1 through the questions. But 10 hours in one day  
2 is enough for any witness.

3 So --

4 MR. JAGOE: You said you would stay  
5 late to finish and go beyond 7 hours. We  
6 haven't -- only been 7 hours on the record yet.

7 DR. LOEB: I don't know how many  
8 hours we've been on the record, but we've been  
9 here for 10 hours.

10 MR. JAGOE: How many hours have we  
11 been on the record?

12 DR. LOEB: Would you like to start  
13 again on Monday morning?

14 MR. JAGOE: I can't agree to that.

15 THE VIDEOGRAPHER: 7 hours and  
16 23 minutes.

17 MR. JAGOE: We have another hour to  
18 go now. I'm willing to finish now.

19 DR. LOEB: I'm sorry.

20 We can't. It's been too long.

21 MR. JAGOE: Then we'll have to  
22 schedule another time.

23 Do you have any problems staying for  
24 another hour, Dr. Strickland?

25 DR. LOEB: Tom, it's time to go.

1 Take your microphone off.

2 THE WITNESS: If they're leaving, I'm  
3 going with them.

4 MR. JAGOE: We'll have to meet again  
5 for the final topic of your 30(b)(6)  
6 deposition, then.

7 THE VIDEOGRAPHER: Are we going off  
8 the record, Counsel?

9 MR. JAGOE: Did you say how many  
10 hours we were on the record?

11 DR. LOEB: He did.

12 THE VIDEOGRAPHER: 7 hours and about  
13 25 minutes now.

14 MR. JAGOE: Okay.

15 We'll stay on the record, 'cause I'm  
16 going to ask some more questions.

17 DR. LOEB: You can ask them to an  
18 empty chair.

19 MS. WHITEFORD: Want to take the  
20 exhibits?

21 DR. LOEB: Yes.

22 These are for us.

23 (Mumbling)

24 THE REPORTER: I can't hear what  
25 you're saying.

1 7:03 P.M.

2 (The deposition concluded at 7:03 P.M.)

3

4

\* \* \*

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DECLARATION UNDER PENALTY OF PERJURY

I, Thomas Wayne Strickland, do hereby  
certify under penalty of perjury that I have  
read the foregoing transcript of my deposition  
taken March 9, 2007; that I have made such  
corrections as appear noted herein, in ink,  
initialed by me; that my testimony as contained  
herein, as corrected, is true and correct.

DATED this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_,  
California.

\_\_\_\_\_  
Thomas Wayne Strickland



## 1 REPORTER'S CERTIFICATION

2  
3 I, Harry Alan Palter, Certified  
4 Shorthand Reporter, in and for the State of  
5 California, do hereby certify:  
6

7 That the witness named in the  
8 foregoing deposition was, before the  
9 commencement of the deposition, duly  
10 administered an oath in accordance with Code of  
11 Civil Procedure Section 2094; that the  
12 testimony and proceedings were reported  
13 stenographically by me and later transcribed  
14 into computer-aided transcription under my  
15 direction; that the foregoing is a true record  
16 of the testimony and proceedings taken at that  
17 time.  
18

19 IN WITNESS WHEREOF, I have subscribed  
20 my name this 11th day of March, 2007.  
21  
22

23 \_\_\_\_\_  
24 Harry Alan Palter, CSR No. 7708  
25