

**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 LAROCHE  
INC., a New Jersey Corporation,

Defendants.

Civil Action No.: 05-12237 WGY

**DECLARATION OF MARIO MOORE IN SUPPORT OF PLAINTIFF AMGEN INC.'S  
MOTION TO PRECLUDE FURTHER INTERFERENCE WITH THIRD-PARTY  
DISCOVERY AND COMPEL PRODUCTION OF DOCUMENTS AND DEPOSITION  
TESTIMONY, OR IN THE ALTERNATIVE, MOTION TO STRIKE DEFENDANTS'  
DEFENSE UNDER 35 U.S.C. § 271(e)(1)**

I, Mario Moore, declare as follows:

1. I am an attorney admitted to practice law before all of the Courts of the State of California and the State of New York and before this Court (*pro hac vice*). I am an associate with the law firm of Day Casebeer Madrid & Batchelder LLP, counsel for plaintiff Amgen Inc. in this matter.

2. I make this declaration of my own personal knowledge. If called to testify with respect to the truth of the matters stated herein, I could and would do so competently.

3. Attached hereto as Exhibit 1 is a true and correct copy of Amgen's Subpoena of DaVita, dated January 12, 2007.

4. Attached hereto as Exhibit 2 is a true and correct copy of Amgen's Subpoena of DaVita, dated March 9, 2007.

5. Attached hereto as Exhibit 3 is a true and correct copy of Amgen's Subpoena of Fresenius, dated March 27, 2007.

6. Attached hereto as Exhibit 4 is a true and correct copy of a Roche document titled "US CERA Medical Team Renal Program Analysis and Recommendations," dated April 6, 2005, bearing Bates number ITC-R-00024046-093.

7. Attached hereto as Exhibit 5 is a true and correct copy of a Roche document consisting of a memo to file from Chrys Kokino to NAOC: MIRCERA Investment Alternative: Reduction in Clinical Trials, dated August 15, 2006, bearing bates number R10-002623730-731.

8. Attached hereto as Exhibit 6 is a true and correct copy of a Roche document consisting of an email from Jerry Varkey to Amy VanBuskirk, dated August 15, 2006, Subject: RE: AMT\_Aug\_9\_06.ppt, bearing bates number R11-000103779-783.

9. Attached hereto as Exhibit 7 is a true and correct copy of a Roche document titled "Synopsis of Protocol Number ML20336: A prospective, randomized, open-label, multi-center, pharmacoeconomic evaluation (Time and Motion) comparing RO0503821 to epoetin alfa in patients with chronic kidney disease (CKD) stage V on dialysis," bearing bates number R11-000224801-808.

10. Attached hereto as Exhibit 8 is a true and correct copy of a Roche document titled “Synopsis of Protocol Number ML20337: Prospective, open-label, randomized, multi-center study to demonstrate the efficacy and safety of intravenous (IV) RO0503821 for hemoglobin control in patients transitioning from chronic kidney disease stage 4 through dialysis,” bearing bates number R11-000221423-462.

11. Attached hereto as Exhibit 9 is a true and correct copy of a Roche document titled “Clinical Study Protocol – Protocol Number ML 20338,” dated October 6, 2006, bearing bates number R11-000221629-694.

12. Attached hereto as Exhibit 10 is a true and correct copy of a Roche document titled “Executive Summary,” dated January 2007, bearing bates number R005193744-746.

13. Attached hereto as Exhibit 11 is a true and correct copy of a Roche document titled “Executive Summary,” dated December 2006, bearing bates number R005193747-749.

14. Attached hereto as Exhibit 12 is a true and correct copy of a Roche document titled “Clinical Trials,” dated January 2, 2007, bearing Bates number R11-000227328-332.

15. Attached hereto as Exhibit 13 is a true and correct copy of excerpts of the transcript of the April 2, 2007 deposition of Shaun Collard.

16. Attached hereto as Exhibit 14 is a true and correct copy of a Roche document consisting of an email from Jean-Paul Pfefen to Jean-Pierre Buch, dated August 18, 2004, RE: Question regarding CERA shipments, bearing bates number ITC-R-00076865-910.

17. Attached hereto as Exhibit 15 is a true and correct copy of a Roche document titled “US IIIb-Anemia Clinical Trial Task Force,” bearing bates number R005186997-7000.

18. Attached hereto as Exhibit 16 is a true and correct copy of a Roche document titled “ML20336 MIRCERA Time and Motion Study,” bearing bates number R005193131-136.

19. Attached hereto as Exhibit 17 is a true and correct copy of a Roche document titled “Anemia Task Force Update,” dated January 16, 2007, bearing bates number R005187983-992.

20. Attached hereto as Exhibit 18 is a true and correct copy of an email from Jerry Varkey to Iris Kingma-Johnson and Richard Beswick, dated June 6, 2006, Subject: FW: CERA – Clinical Study Update, bearing bates number R11-000218955-956.

21. Attached hereto as Exhibit 19 is a true and correct copy of an email from BeLinda Mathie to Deborah E. Fishman, dated March 29, 2007.

22. Attached hereto as Exhibit 20 is a true and correct copy of a letter from David L. Cousineau to Deborah E. Fishman, dated March 28, 2007.

23. Attached hereto as Exhibit 21 is a true and correct copy of an email from Mark J. Hebert to Deborah E. Fishman, dated March 29, 2007.

24. Attached hereto as Exhibit 22 is a true and correct copy of an email from Mark J. Hebert to Mario Moore, dated March 29, 2007.

25. Attached hereto as Exhibit 23 is a true and correct copy of excerpts of the deposition transcript of Ute Dugan, March 22, 2007.

26. Attached hereto as Exhibit 24 is a true and correct copy of excerpts of the transcript of the April 2, 2007 deposition of Frank (Chris) Dougherty.

27. Attached hereto as Exhibit 25 is a true and correct copy of an email from Thomas Fleming to Deborah E. Fishman, dated March 28, 2007.

28. Attached hereto as Exhibit 26 is a true and correct copy of a letter from Christian T. Kemnitz to Deborah E. Fishman, dated March 19, 2007.

29. Attached hereto as Exhibit 27 is a true and correct copy of a letter from Deborah E. Fishman to Christian T. Kemnitz, dated March 28, 2007.

30. Attached hereto as Exhibit 28 is a true and correct copy of a Roche document titled “ML20337 MIRCERA Continuum of Care,” bearing bates number R005193165-177.

31. Attached hereto as Exhibit 29 is a true and correct copy of a Roche document titled “ML20338 MIRCERA Peritoneal Dialysis” bearing bates number R00519311-116.

32. Attached hereto as Exhibit 30 is a true and correct copy of a letter from David Cousineau to Krista M. Carter, dated March 28, 2007.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: April 13, 2007

/s/ Mario Moore

Mario Moore