

APPENDIX B

	UNPLED ALLEGATIONS OF INEQUITABLE CONDUCT IN SOFOCLEOUS EXPERT REPORT	ROCHE'S ACCESS TO THE FACTS	PARAGRAPH(S) IN REPORT
1	Amgen allegedly misrepresented to the PTO that a two-way non-obviousness test applied in overcoming the Lai patent.	Lin file histories are in the public record. Additionally, complete Lin file histories were produced to Roche by May 2006 in the ITC proceeding.	293
2	Amgen allegedly did not disclose to the PTO EP '619's related counterpart patent U.S. 4,766,075 during the pendency of the '179 application.	EP '619 and related counterpart patent U.S. 4,766,075 are in the public record. Additionally, EP '619 is disclosed in the Lin filed histories, which were produced to Roche by May 2006 in the ITC proceeding. (See AM-ITC 00454408)	309
3	Amgen allegedly failed to disclose McCormick et al., US 4,966,843, "Expression of Interferon Genes in Chinese Hamster Ovary Cells."	Patent that is publicly available patent.	314-16
4	Amgen allegedly failed to disclose the following documents stating that the apparent molecular weight of recombinant EPO is not higher than that of human urinary EPO: Egrie, Presentation Transcript "Cloning of Human & Monkey EPO" (1984) from Hemoglobin Switching Meeting, Airlie House, Virginia, September 1984.	This presentation was produced to Roche by May 2006 in the ITC proceeding. (See AM-ITC 00557616, AM-ITC 00557617-23)	324 (in part)
5	Amgen allegedly failed to disclose the following documents stating that the apparent molecular weight of recombinant EPO is not higher than that of human urinary EPO:	Exhibit 113 to <i>Amgen v. HMR/TKT</i> case, 126 F. Supp. 2d 69 (D. Mass. 2001) and cited in Judge Young's Jan. 19, 2001 decision at 143. Additionally, <i>Amgen v. HMR/TKT</i> proceedings, including Trial Exhibit 113, were	324 (in part)

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	produced to Roche by December 2006 in the this case. (AM-ITC 00945869)	
6 Amgen allegedly failed to disclose to the PTO declarations by Dr. Thomas Heckler and Dr. Goldwasser regarding MW of u-EPO vs. r-EPO, filed as exhibits in the Cilag GmbH Opposition proceedings.	The declarations are exhibits to an Opposition proceeding that are in the public record. Additionally, those declarations were produced to Roche by May 2006 in the ITC proceeding. (See AM-ITC 00312411, AM-ITC 00311606)	326
7 Amgen allegedly failed to disclose to the PTO the Egrie Presentation Transcript regarding the similarity in glycosylation, MW and average carbohydrate composition of COS rEPO compared to human urinary EPO entitled: Egrie, Presentation Transcript "Cloning of Human & Monkey EPO" (1984) from Hemoglobin Switching Meeting, Airlie House, Virginia, September 1984.	This presentation was produced to Roche by May 2006 in the ITC proceeding. (See AM-ITC 00557616, AM-ITC 00557617-23)	355
8 Amgen allegedly failed to disclose to the PTO Vapnek et al, which reported "no differences in structure have been observed" between CHO rEPO and urinary EPO: "Vapnek et al., "Comparative Studies of Natural and Recombinant Erythropoietin," Banbury Reports 29: Therapeutic Peptides and Proteins, 241-56 (1988)."	Exhibit 113 to <i>Amgen v. HMR/TKT</i> case, 126 F. Supp. 2d 69 (D. Mass. 2001) and cited in Judge Young's Jan. 19, 2001 decision at 143. Additionally, <i>Amgen v. HMR/TKT</i> proceedings, including Trial Exhibit 113, were produced to Roche by December 2006 in this case. (AM-ITC 00945869)	373
9 Amgen allegedly concealed the standard used to measure RIA from the '349 Examiner.	Roche relies on documents produced to Roche by May 2006 in the ITC proceeding and by December 2006 in this case. (AM-ITC 00550777, AM-ITC	378-86

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		00061675-706, AM-ITC 00558618)	
10	Amgen allegedly failed to disclose to the PTO their work with the 1411 cell line.	Trial Exhibit 2425 to <i>Amgen v. HMR/TKT</i> case. Litigation files from <i>Amgen v. HMR/TKT</i> were produced to Roche by December 2006 in this case. (See AM-ITC 01005412)	387-95
11	Amgen allegedly failed to disclose to the PTO the Baron-Goldwasser Clinical Study.	HMR/TKT advanced the same allegation in <i>Amgen v. HMR/TKT</i> case and the argument is cited in Judge Young's Jan. 19, 2001 decision at 138.	419-33