

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.: 05-12237 WGY

AMGEN'S OPPOSITION TO DEFENDANTS' MOTION FOR AMGEN TO SHOW CAUSE WHY IT IS NOT IN CONTEMPT OF THE PROTECTIVE ORDER

Amgen, Inc. ("Amgen") hereby opposes Defendants' Motion for Amgen to Show Cause why it is not in Contempt of the Protective Order. Contrary to Defendants' assertion, Amgen did not deliberately attempt to evade the Protective Order or to harass or annoy Roche. Amgen's counsel intended to comply with the parties' Protective Order, as demonstrated by the fact that it filed Roche's "Highly Confidential" documents in a sealed envelope. However, Amgen's counsel made a clerical error with respect to the Roche documents designated as "Confidential" by filing them in the public record. As soon as Roche brought the error to counsel's attention, counsel for Amgen immediately moved to contact the Court to correct the error and have the documents removed from the public record. With the assistance of the Court, all of the documents that were inadvertently filed publicly were removed from the Court's ECF system by 10:36 a.m. on the next business day after the filing.

Counsel regrets the error, and apologizes to the Court and to Roche for its mistake. However, as Roche is aware from having filed its own confidential information in the public record, mistakes occur. This is not pointed out to excuse what Amgen's counsel did, but rather, to place in context that unfortunately, notwithstanding the good faith effort of counsel, clerical errors can and do happen.

Roche failed to include a Rule 7.1 Certificate with its motion. Had Roche consulted with Amgen's counsel, Amgen's counsel would have informed them that it had no objection to paying Roche's costs in notifying Amgen's counsel of the error even though Roche has yet to make a particularized showing that the mistakenly filed documents are indeed confidential

Accordingly, Amgen Inc. respectfully requests that Defendants' Motion for Amgen to Show Cause why it is not in Contempt of the Protective Order be denied.

April 18, 2007

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Respectfully Submitted,
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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/ Patricia R. Rich

Patricia R. Rich