UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN INC., Plaintiff, v. F. HOFFMANN-LA ROCHE LTD, ROCHE DIAGNOSTICS GmbH, and HOFFMANN-LA ROCHE INC. Defendants.	CIVIL ACTION No.: 05-CV-12237WGY

Exhibit D in Support of Defendants' Motion to Enforce the Court's March 27, 2007 Order and to Compel Deposition Testimony Under Rule 30(b)(6)

Roche is filing this document in the public record pursuant to paragraph 14 of the Protective Order. Amgen did not file a motion as to why the information is confidential trade secret material within the (4) Court day period of Roche's in camera submission, as required by paragraph 14.

Dated: April 20, 2007
Boston, Massachusetts

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Exhibit D

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.

VIDEOTAPED DEPOSITION OF FU-KUEN LIN, PH.D.
VOLUME I
WESTLAKE VILLAGE, CALIFORNIA
MARCH 28, 2007

(This transcript contains testimony 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

Just for the record --

THE WITNESS: Good morning.

MS. BEN-AMI: -- I don't believe that we ever had a designation of Dr. Lin for topic 1, so I will formally object to that.

But we will go forward as best we can and see where this all leads us, since you're here.

BY MS. BEN-AMI:

Q Do you understand you're being designated as a spokesperson for Amgen as a 30(b)(6) witness?

A I don't know what that number designate for.

Q Okay.

But you understand that Mr. Madrid -- he's your lawyer today; right?

A Yes.

Q Okay.

And he said that you were designated to speak on behalf of Amgen, as to certain things; right?

A That's correct.

Q You understand that?

A Yes.

BY MS. BEN-AMI:

Q Did you ever check on the cells that she had when she had left Dr. Goldwasser and she was in New York?

MR. MADRID: Objection.

Vague.

THE WITNESS: What do you mean by --

BY MS. BEN-AMI:

Q Well, the only cells that you knew of with Dr. Sherwood were the cells that she was talking about when she was at Dr. Goldwasser's lab?

A Yes.

That was reported. I never checked the cells, personally.

Q You did not check the cells, personally?

A No.

No, ma'am.

Q Did anyone at Amgen check the cells, personally?

A I cannot tell you.

But I knew that later on -- I believe she reported that the cell have lost activity to produce erythropoietin. Her -- she,

herself, reported that.

Q You mean, in the literature or to you?

A I don't know.

This was in some meeting.

Q Okay.

Now, had the cells lost their ability to produce EPO, by 1984?

A I cannot answer you. I don't know the time.

Q Can you give me a list, to the best of your recollection and your knowledge as a 30(b)(6) -- of -- we have the Gaylis cells, the Abbott cells, talked about Sherwood cells -- what other cells did you actually try to get EPO from, in the human world?

A Okay.

MR. MADRID: Objection.

Misstates the testimony.

Go ahead.

THE WITNESS: As I mentioned earlier, we have obtained quite a few cells from ATCC.

BY MS. BEN-AMI:

Q Do you have the numbers of what you --

A After we had purify the E.coli EPO -- I believe E.Coli EPO has also assay in the in vivo system, it have some activity.

Q And who did that work?

A That I believe was -- in vivo assay would have been done through Joan Egrie's group --

Q Okay.

A -- or maybe someone else.

If it's not by her, it would be by someone else outside. Because I think, at the time, we had -- EPO assay -- part of EPO assay -- part is carried out outside.

Q Now, if you continue looking down on this column, we're still on this column, it says -- it's line -- the line numbers don't always match up perfectly, so I'll give you my best understanding, which is line 58 or 59. It talks about vertebrate cells being mammalian and avian?

Do you see that?

A Yes.

Q How many different vertebrate cells did Amgen use to produce biologically active human EPO by November 30, 1984?

I don't know.

No. I did not.

Q At any time did you determine that the amino acid sequence --

A No.

Q -- was 165?

A I did not determine.

It was done by the researchers at the Protein Sequencing Group, I think.

Q Okay.

And you don't know who did that work?

A I don't know the full -- involved in determining that. I don't know.

Q So the deduced -- did you deduce the amino acid sequence of human EPO from the DNA sequence?

A That's correct.

Q And when you deduced the amino acid sequence of human EPO from the DNA sequence, you determined that human EPO was 166 amino acids; correct?

A That's right.

Q Okay.

And later, it was determined by someone else that the actual amino acid

single probe.

Q So who was wearing the lead vest?

A We wear it all the time, and my associate.

And at one time, we also need to solicitate the help of the scientist next to me to help us, to relieve the burden, given of the little exposure. So they were so gracious to help us out.

Q Okay.

So now let's talk about the monkey EPO cDNA sequencing.

That's on column 19 at the bottom.

Do you see that?

A Yes.

Q Who did that work?

A At the time of this EPO cloning, the EPO project DNA sequencing work was -- was put to -- in charge by Sid Suggs. He was assigned to do the DNA sequencing work, coordinating all the sequencing DNA work for us.

Q In column 19 and column 20, there's a whole list of enzymes that recognize certain DNA sequences and act like a scissor and cut at those sequences?

A Could I read this through before I answer your question?

Q Sure.

A (Examining document) Yes.

What was -- would you rephrase the question again?

Q Yeah. Sure.

Column 19 and column 20, it talks about using enzymes.

Do you see that?

A Yes.

Q And there's a whole list of enzymes that recognize certain sequences and cut at those sequences; right?

A That's correct.

Q That's what a restriction enzyme is; right?

A Yes.

Q And those restriction enzymes were publicly available and Amgen used them; right?

MR. MADRID: Objection.

Outside the scope of the 30(b)(6).

Calls for expert testimony.

THE WITNESS: This enzyme's probably available and used by all the microbiologists.

That's why I say no -- all this.

BY MS. BEN-AMI:

Q Now, after that, it talks about the sequencing work -- right? -- in column 20.

And I'd like you to read up until example 4 to yourself, and tell me who did this work.

A Again, the sequencing work was coordinated by Sid Suggs.

At the time, there's quite a few people involved in sequencing, the erythropoietin gene maybe eight or ten people was doing this, and I don't know who involved in sequencing the monkey cDNA.

Sid Suggs would have knowledge, because he probably give pieces to different individual to sequence.

Q Okay.

So let's go to example 4. And now that's the human genomic library.

Do you see that?

A Yes.

Q And then it talks about a human fetal -- I'll say that again -- "a human fetal liver genomic library."