

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

**Exhibit E 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

/s/ Keith E. Toms
Lee Carl Bromberg (BBO# 058480)
Julia Huston (BBO# 562160)
Keith E. Toms (BBO# 663369)
Nicole A. Rizzo (BBO# 663853)
BROMBERG & SUNSTEIN LLP
125 Summer Street
Boston, MA 02110
Tel. (617) 443-9292
ktoms@bromsun.com

03099/00501 652289.2

3/30/2007 Boone, Thomas Charles

Exhibit E

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3
4

5 AMGEN INC.,)

6 Plaintiff,)

7 vs.)

Civil Action)

8 F. HOFFMANN-LA ROCHE LTD., a Swiss) No. 05-12237 WGY

Company, ROCHE DIAGNOSTICS GmbH,)

9 a German Company, and HOFFMANN-LA)

ROCHE, INC., a New Jersey)

10 Corporation)

11 Defendants.)

12
13
14 DEPOSITION OF THOMAS CHARLES BOONE

15 Friday, March 30, 2007
16
17

18 - CONFIDENTIAL -
19
20
21
22

23 Reported by:

Lynda L. Fenn, CSR, RPR

24 CSR No. 12566
25

3/30/2007 Boone, Thomas Charles

1 here to give your personal knowledge and that's all
2 he wants as well.

3 MR. JAGOE: I think its within the topic
4 and that could be resolved later, so we'll just take
5 the testimony now.

6 MR. GAEDE: This is talking about the
7 erythropoietin application. Okay. He has been
8 excluded from talking about erythropoietin. He's
9 talking about other -- two examples of proteins that
10 were produced at Amgen. All right?

11 And your topics do not even ask
12 about -- do not even ask about the prosecution
13 history or the application -- the prosecution of
14 these patents, so it's entirely outside of the
15 scope. Not even close.

16 You can explain to Judge Young how a
17 question here in 1988 ties to a specific science as
18 noticed in your topics. I'd like to hear the
19 explanation now.

20 MR. JAGOE: Can you answer the pending
21 question?

22 MR. GAEDE: If we keep going down this
23 path we will adjourn this deposition and seek a
24 protective order.

25 MR. JAGOE: Are you instructing him not to

3/30/2007 Boone, Thomas Charles

1 answer?

2 MR. GAEDE: No, he can answer the
3 question.

4 MR. JAGOE: All right. Then let's just
5 have the question -- I understand your threat.

6 MR. GAEDE: No, no. I'm putting you on
7 notice.

8 MR. JAGOE: Okay. I understand.

9 MR. GAEDE: And I find it -- I find it
10 very surprising that you are not even attempting to
11 stay within the confines of good faith of those
12 topics.

13 MR. JAGOE: I told you my understanding of
14 the topic was that it was related to all recombinant
15 expression of glycoproteins other than EPO prior to
16 1985 and I think we've established now that t-PA was
17 such a protein.

18 MR. GAEDE: The face of your topics as
19 drafted by your firm says, "All efforts by Amgen,"
20 Topic 3. Topic 4 says, "All efforts by Amgen."

21 It says nothing in your topics about
22 efforts by other parties.

23 MR. JAGOE: Can I have the answer to the
24 question?

25 MR. GAEDE: If you can.

3/30/2007 Boone, Thomas Charles

1 THE WITNESS: I don't know what was meant
2 by the word "numerous."

3 BY MR. JAGOE:

4 Q My question is: Does Amgen have any
5 information about numerous -- let me start again.

6 Does Amgen have any information about
7 mammalian cells capable of effecting glycosylation
8 of expressed polypeptides that were known prior to
9 1984 other than COS, Chinese hamster ovary cells and
10 293 cells?

11 MR. GAEDE: Objection; the question as
12 phrased is argumentative. Counsel is reading from
13 Exhibit No. 20, a document from the prosecution
14 history, and therefore the question is outside the
15 scope and also calls for a legal conclusion.

16 THE WITNESS: I don't know what was the
17 knowledge of other people at Amgen in this time
18 frame regarding expression of proteins in mammalian
19 cells.

20 BY MR. JAGOE:

21 Q In your current state of preparation as a
22 30(b)(6) witness, you can only identify CHO cells,
23 COS cells and 293 cells as being used at Amgen to
24 obtain glycosylated polypeptides prior to 1985?

25 A That's not true. Also made proteins in