

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,)	
)	
Plaintiff,)	
v.)	Civil Action No.: 05 Civ. 12237 WGY
)	
F. HOFFMANN-LA ROCHE LTD, ROCHE)	
DIAGNOSTICS GmbH, and HOFFMANN-)	
LA ROCHE INC.,)	
Defendants.)	
)	
)	

**ROCHE’S MOTION FOR LEAVE TO AMEND ITS ANSWER
TO AMPLIFY ALLEGATIONS OF AMGEN’S INEQUITABLE CONDUCT AND TO
DEFINE RELEVANT MARKETS FOR PURPOSES OF ANTITRUST
COUNTERCLAIMS**

Defendants F. Hoffmann-La Roche Ltd, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively “Roche”) submit this motion seeking leave to amend their answer to include additional allegations of Amgen’s inequitable conduct during the prosecution of its asserted patents, and to define relevant markets so as to conform Roche’s antitrust counterclaims to the evidence. The proposed amended answer, redlined to show added material, is attached as Exhibit A.

Roche’s proposed amendment would amplify its previously alleged inequitable conduct defense and antitrust counterclaims based on new facts obtained during discovery. As every factual allegation to be added has been disclosed to Amgen in complete detail as the supporting facts became known to Roche during discovery and/or in expert reports, Amgen cannot in good faith claim surprise and would not be prejudiced by having Roche’s allegations set forth in an amended pleading.

Thus, Roche respectfully asks this Court for leave to amend its answer to include additional allegations of Amgen's inequitable conduct and to better define markets relevant to the antitrust counterclaims. In support of this motion, Roche submits the accompanying memorandum of law.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1

I certify that counsel for the parties have conferred in an attempt to resolve or narrow the issues presented by this motion and that no agreement could be reached.

Dated: May 23, 2007
Boston, Massachusetts

/s/ Keith E. Toms
Keith E. Toms

Respectfully submitted,

F. HOFFMANN-LA ROCHE LTD,
ROCHE DIAGNOSTICS GMBH, and
HOFFMANN-LA ROCHE INC.

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the 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/ Keith E. Toms
Keith E. Toms

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