

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,)	
)	
)	
Plaintiff,)	
)	Civil Action No.: 05-12237 WGY
v.)	
)	
)	
F. HOFFMANN-LAROCHE)	
LTD., a Swiss Company, ROCHE)	
DIAGNOSTICS GmbH, a German)	
Company and HOFFMANN LAROCHE)	
INC., a New Jersey Corporation,)	
)	
Defendants.)	
_____)	

[PROPOSED] ORDER

Further Plaintiff’s May 23, 2007 Motion to Strike Roche’s Non-Infringement, Invalidity, and Inequitable Conduct Allegations Disclosed After the Close of Fact Discovery or, in the Alternative, Motion for Leave to Supplement Amgen’s Expert Reports and Motion for Protective Order to Postpone Depositions of Certain Witnesses, the Court orders Defendants to:

- Strike the previously undisclosed non-infringement and materially changed allegations from the May 11 expert reports of Roche experts Drs. Flavell, Klibanov, Mayersohn, Imperiali, Jorgensen, Cords and Longmore;¹ AND

¹ The sixteen non-infringement and materially changed allegations Amgen seeks to have stricken are set forth in Appendix A to the May 24, 2007 Memorandum in Support of the Motion to Strike Non-Infringement, Invalidity, and Inequitable Conduct Allegations Disclosed After Fact Discovery or, in the Alternative, Motion for Leave to Supplement Amgen’s Expert Reports and Motion for Protective Order to Postpone Depositions of Certain Witnesses.

- Strike Roche's May 1 Supplemental Reports of Drs. Flavell, Kadesch, Lowe, Spinowitz and Mr. Sofocleous, and the May 8 supplemental expert report of Dr. Lowe;

OR, in the alternative:

- Grant Amgen leave to file reports rebutting Roche's previously undisclosed non-infringement allegations two weeks from the date of the Court's order; AND
- Grant Amgen leave to file responsive expert reports to any Roche supplemental expert report that the Court does not to strike; AND
- Extend the expert discovery deadline to postpone the depositions of those Amgen experts who will be submitting responsive reports.

SO ORDERED.

WILLIAM G. YOUNG
DISTRICT COURT JUDGE