

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.)	
_____)	

**DEFENDANTS’ MOTION FOR LEAVE TO FILE UNDER SEAL DOCUMENTS
CONTAINING DEFENDANTS’ TRADE SECRETS AND SUBMITTED IN
CONNECTION WITH AMGEN’S 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**

Defendants F. Hoffmann-La Roche Ltd, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively “Roche”) respectfully move, pursuant to Local Rule 7.2 and the Protective Order, to file under seal documents which contain Roche’s confidential and trade secret materials submitted for *in camera* review by Amgen if the Court deems them necessary for its ruling on Amgen’s 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 (Docket No. 447).¹ The present motion

¹ The documents Amgen seeks to file in the public record were submitted for *in camera* review on May 24, 2007 and correspond to Exhibits 4-10 of Amgen’s Declaration of Mario Moore in Support of Plaintiff Amgen Inc.’s Motion to Strike Roche’s Non-Infringement, Invalidity, and Inequitable Conduct Allegations Disclosed After the

relates solely to the confidentiality of Amgen's motion papers; as to the substantive issues, Roche will file its opposition to Amgen's motion on or before the deadline of June 7, 2007.

None of the exhibits that Amgen seeks to file should be accepted for filing at all, in the public record or otherwise, because they are unnecessary to the Court's disposition of Amgen's motion. If the Court determines that some or all of these exhibits are necessary for its decision, however, Roche requests that Exhibits 9 and 10 be filed under seal to protect Roche trade secrets contained in these documents.² As grounds for this motion, Roche relies on the accompanying Memorandum and Declaration of Dr. Hans Koll, Research Leader at Roche Diagnostics GmbH.

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 counsel for Amgen does not assent.

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 (Docket No. 447).

² While Roche maintains that all of the exhibits submitted for *in camera* review are highly confidential documents, in light of the Court's requirement that only trade secrets be filed under seal, Roche will not object to Exhibits 4-8 and Appendix A being filed in the public record if the Court determines that they are necessary to decide Amgen's motion.

DATED: Boston, Massachusetts
June 5, 2007

Respectfully submitted,

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

By their Attorneys,

/s/ Nicole A. Rizzo

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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/ Nicole A. Rizzo

Nicole A. Rizzo

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