

EXHIBIT 15

Gaylis, M.D., Franklin D.
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6/8/2007

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Certified Copy

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.

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DEPOSITION OF FRANKLIN D. GAYLIS, M.D.

LA JOLLA, CALIFORNIA

JUNE 8, 2007

(This transcript is  
designated confidential as  
per Section 5(c) of the  
Amended Protective Order.  
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transcript in accordance  
with the protective order.)

Reported by:

Harry Alan Palter, C.S.R. NO. 7708

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|    |    |                                          |          |
|----|----|------------------------------------------|----------|
| 1  | Q. | And did they have similar                | 14:57:39 |
| 2  |    | results?                                 | 14:57:41 |
| 3  |    | MR. FLEMING: Objection.                  | 14:57:41 |
| 4  |    | Vague.                                   | 14:57:42 |
| 5  |    | THE WITNESS: It's an unfair              | 14:57:45 |
| 6  |    | question, 'cause we didn't -- we         | 14:57:46 |
| 7  |    | didn't perform the same experiment and   | 14:57:48 |
| 8  |    | have it assayed in two different labs,   | 14:57:50 |
| 9  |    | as I recall.                             | 14:57:52 |
| 10 |    | BY MS. CARTER:                           | 14:57:53 |
| 11 | Q. | Do you recall how they were              | 14:57:53 |
| 12 |    | different?                               | 14:57:54 |
| 13 |    | MR. FLEMING: Objection.                  | 14:57:55 |
| 14 |    | Speculation.                             | 14:57:56 |
| 15 |    | Beyond the scope of his report.          | 14:57:57 |
| 16 |    | THE WITNESS: I had different             | 14:57:59 |
| 17 |    | working relationships with both labs,    | 14:58:03 |
| 18 |    | I believe, at different times and        | 14:58:05 |
| 19 |    | didn't send the same sample.             | 14:58:06 |
| 20 |    | So I think it's an unfair                | 14:58:08 |
| 21 |    | question to say were they comparable?    | 14:58:10 |
| 22 |    | BY MS. CARTER:                           | 14:58:16 |
| 23 | Q. | So is it correct that different          | 14:58:16 |
| 24 |    | samples of your 1411-H supernatant would | 14:58:19 |
| 25 |    | produce different amounts of EPO?        | 14:58:23 |

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|    |                                          |          |
|----|------------------------------------------|----------|
| 1  | MR. FLEMING: Objection.                  | 14:58:25 |
| 2  | Beyond the scope of his report.          | 14:58:26 |
| 3  | Calls for speculation.                   | 14:58:26 |
| 4  | THE WITNESS: Please repeat the           | 14:58:37 |
| 5  | question.                                | 14:58:38 |
| 6  | BY MS. CARTER:                           | 14:58:39 |
| 7  | Q. Is it correct that different          | 14:58:39 |
| 8  | samples of your 1411-H supernatant would | 14:58:41 |
| 9  | produce different amounts of EPO?        | 14:58:43 |
| 10 | MR. FLEMING: Objection.                  | 14:58:45 |
| 11 | Beyond the scope of his report.          | 14:58:47 |
| 12 | Calls for speculation.                   | 14:58:48 |
| 13 | THE WITNESS: It depends on how           | 14:58:50 |
| 14 | different the samples were.              | 14:58:52 |
| 15 | BY MS. CARTER:                           | 14:58:54 |
| 16 | Q. What do you mean, "how                | 14:58:54 |
| 17 | different"?                              | 14:58:55 |
| 18 | MR. FLEMING: Objection.                  | 14:58:56 |
| 19 | Calls for speculation.                   | 14:58:57 |
| 20 | Beyond the scope of his report.          | 14:58:58 |
| 21 | THE WITNESS: I've not been               | 14:59:03 |
| 22 | asked to provide an opinion on this --   | 14:59:05 |
| 23 | comparing different assays.              | 14:59:07 |
| 24 | BY MS. CARTER:                           | 14:59:16 |
| 25 | Q. You said a moment -- you              | 14:59:16 |

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|    |                                               |          |
|----|-----------------------------------------------|----------|
| 1  | testified a moment ago -- and correct me if   | 14:59:18 |
| 2  | I'm wrong -- that you wouldn't have relied on | 14:59:20 |
| 3  | Dr. Egrie's RIA test results if you didn't    | 14:59:21 |
| 4  | find them reliable; correct?                  | 14:59:24 |
| 5  | MR. FLEMING: Objection.                       | 14:59:25 |
| 6  | Mischaracterizes the document.                | 14:59:26 |
| 7  | Mischaracterizes the record.                  | 14:59:28 |
| 8  | All he said is he received                    | 14:59:29 |
| 9  | them. He didn't check them or verify          | 14:59:31 |
| 10 | them.                                         | 14:59:34 |
| 11 | Calls for speculation.                        | 14:59:35 |
| 12 | Beyond the scope of his report.               | 14:59:36 |
| 13 | THE WITNESS: I didn't perform                 | 14:59:37 |
| 14 | the assays, and I obtained the data           | 14:59:38 |
| 15 | and assumed that it was accurate data.        | 14:59:41 |
| 16 | BY MS. CARTER:                                | 14:59:45 |
| 17 | Q. Did you assume it was accurate             | 14:59:45 |
| 18 | data because the RIA is a viable method of    | 14:59:47 |
| 19 | testing for the activity?                     | 14:59:51 |
| 20 | MR. FLEMING: Objection.                       | 14:59:52 |
| 21 | Beyond the scope of his report.               | 14:59:53 |
| 22 | THE WITNESS: I don't have an                  | 14:59:54 |
| 23 | opinion on the standard of assay.             | 14:59:55 |
| 24 | I just knew it was a                          | 14:59:59 |
| 25 | different -- it was an immunoassay.           | 15:00:00 |

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|    |                                              |          |
|----|----------------------------------------------|----------|
| 1  | BY MS. CARTER:                               | 15:00:00 |
| 2  | Q. Would you rely on the results             | 15:00:04 |
| 3  | if you didn't have an understanding it was a | 15:00:05 |
| 4  | reliable method of testing for the activity? | 15:00:07 |
| 5  | MR. FLEMING: Objection.                      | 15:00:09 |
| 6  | Calls for speculation.                       | 15:00:09 |
| 7  | Incomplete hypothetical.                     | 15:00:10 |
| 8  | Beyond the scope of his report.              | 15:00:12 |
| 9  | THE WITNESS: Please repeat the               | 15:00:14 |
| 10 | question.                                    | 15:00:16 |
| 11 | BY MS. CARTER:                               | 15:00:20 |
| 12 | Q. Would you rely on the                     | 15:00:21 |
| 13 | results -- Dr. Egrie's results -- as a basis | 15:00:25 |
| 14 | of your opinion in your expert report if you | 15:00:27 |
| 15 | didn't have an understanding that the RIA    | 15:00:31 |
| 16 | method was a reliable method for testing the | 15:00:34 |
| 17 | activity?                                    | 15:00:37 |
| 18 | MR. FLEMING: Objection.                      | 15:00:37 |
| 19 | Beyond the scope of his report.              | 15:00:39 |
| 20 | Mischaracterizes the document.               | 15:00:40 |
| 21 | Mischaracterizes his testimony.              | 15:00:42 |
| 22 | THE WITNESS: I can only state                | 15:00:44 |
| 23 | the results that she gave me.                | 15:00:45 |
| 24 | BY MS. CARTER:                               | 15:00:49 |
| 25 | Q. Could you interpret the                   | 15:00:49 |

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|    |                                        |          |
|----|----------------------------------------|----------|
| 1  | results?                               | 15:00:50 |
| 2  | MR. FLEMING: Objection.                | 15:00:50 |
| 3  | Beyond the scope of his report.        | 15:00:52 |
| 4  | THE WITNESS: I can.                    | 15:00:54 |
| 5  | BY MS. CARTER:                         | 15:00:56 |
| 6  | Q. You cannot?                         | 15:00:57 |
| 7  | A. I can.                              | 15:00:57 |
| 8  | Q. Can?                                | 15:00:59 |
| 9  | A. I can.                              | 15:00:59 |
| 10 | I'm able to.                           | 15:01:01 |
| 11 | The numbers are                        | 15:01:02 |
| 12 | self-explanatory.                      | 15:01:03 |
| 13 | Q. Do you consider the RIA method      | 15:01:18 |
| 14 | to be a reliable method of determining | 15:01:20 |
| 15 | activity?                              | 15:01:24 |
| 16 | MR. FLEMING: Objection.                | 15:01:25 |
| 17 | Asked and answered.                    | 15:01:28 |
| 18 | Beyond the scope of his expert         | 15:01:29 |
| 19 | report.                                | 15:01:30 |
| 20 | Vague as to the term                   | 15:01:31 |
| 21 | "activity."                            | 15:01:32 |
| 22 | THE WITNESS: I've not been             | 15:01:33 |
| 23 | asked to form an opinion on the        | 15:01:34 |
| 24 | accuracy of RIAs.                      | 15:01:36 |
| 25 |                                        |          |

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|----|----------------------------------------|----------|
| 1  | BY MS. CARTER:                         | 15:01:37 |
| 2  | Q. But you're relying on the data      | 15:01:38 |
| 3  | in your expert report; correct?        | 15:01:39 |
| 4  | MR. FLEMING: Objection.                | 15:01:40 |
| 5  | Mischaracterizes his testimony.        | 15:01:42 |
| 6  | He's only saying he received           | 15:01:44 |
| 7  | this data. He didn't say he's relying  | 15:01:45 |
| 8  | on anything.                           | 15:01:47 |
| 9  | Stop trying to mislead this            | 15:01:49 |
| 10 | witness, Counsel.                      | 15:01:50 |
| 11 | Objection.                             | 15:01:51 |
| 12 | Vague.                                 | 15:01:52 |
| 13 | Beyond the scope of his report.        | 15:01:53 |
| 14 | Mischaracterizes his testimony.        | 15:01:54 |
| 15 | THE WITNESS: I'm only                  | 15:01:54 |
| 16 | recalling the data that was sent to    | 15:01:58 |
| 17 | me.                                    | 15:02:00 |
| 18 | BY MS. CARTER:                         | 15:02:01 |
| 19 | Q. Did you rely on this data for       | 15:02:01 |
| 20 | your opinion that the 1411-H cell line | 15:02:04 |
| 21 | produced EPO?                          | 15:02:05 |
| 22 | MR. FLEMING: Objection.                | 15:02:06 |
| 23 | Mischaracterizes the document.         | 15:02:07 |
| 24 | Asked and answered.                    | 15:02:09 |
| 25 | THE WITNESS: I included the            | 15:02:12 |



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|    |                                             |          |
|----|---------------------------------------------|----------|
| 1  | immunoreactive data to support the          | 15:02:13 |
| 2  | biologically active data.                   | 15:02:16 |
| 3  | BY MS. CARTER:                              | 15:02:20 |
| 4  | Q. And would you -- would it be             | 15:02:20 |
| 5  | fair to say you'd only include this data if | 15:02:27 |
| 6  | you understood RIA to be a reliable method  | 15:02:30 |
| 7  | for determining immunological activity?     | 15:02:32 |
| 8  | MR. FLEMING: Objection.                     | 15:02:35 |
| 9  | Beyond the scope of his report.             | 15:02:37 |
| 10 | Mischaracterizes his testimony.             | 15:02:38 |
| 11 | Asked and answered.                         | 15:02:39 |
| 12 | He told you he just included                | 15:02:41 |
| 13 | the data because it was provided to         | 15:02:44 |
| 14 | him.                                        | 15:02:45 |
| 15 | He didn't say he was relying on             | 15:02:45 |
| 16 | anything.                                   | 15:02:47 |
| 17 | MS. CARTER: Don't testify for               | 15:02:47 |
| 18 | the witness.                                | 15:02:48 |
| 19 | MR. FLEMING: You can't keep                 | 15:02:48 |
| 20 | asking him the same question because        | 15:02:50 |
| 21 | you don't like his answer.                  | 15:02:51 |
| 22 | Have you anything to add to                 | 15:02:53 |
| 23 | your previous answers?                      | 15:02:54 |
| 24 | THE WITNESS: No. I --                       | 15:02:56 |
| 25 | MR. FLEMING: That's it.                     | 15:02:58 |