

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN, INC.,

Plaintiff,

v.

CIVIL ACTION No.: 05-CV-12237-WGY

**F. HOFFMAN-LA ROCHE LTD.,
ROCHE DIAGNOSTICS GmbH,
and HOFFMAN-LA ROCHE INC.,**

Defendants.

**NON-PARTY FRESENIUS' ASSENTED-TO MOTION FOR LEAVE TO FILE UNDER
SEAL DOCUMENTS CONTAINING NON-PARTY FRESENIUS' TRADE SECRETS
WHICH WERE SUBMITTED BY AMGEN IN CONNECTION WITH AMGEN'S
MOTION FOR SUMMARY JUDGMENT ON ROCHE'S ANTITRUST AND STATE
LAW COUNTERCLAIMS**

Now comes Fresenius Medical Care Holdings, Inc., d/b/a Fresenius Medical Care North America ("Fresenius"), who is not a party to this action, and moves for leave to file under seal certain portions of a document containing non-party Fresenius' trade secrets pursuant to Local Rule 7.2 and the protective order in effect in this case. Specifically, Fresenius submits that its confidential and trade secret information is revealed in Paragraph 8 of Exhibit 4 of the Declaration of James M. Fraser in Support of Amgen's Motion for Summary Judgment on Roche's Antitrust and State Law Counterclaims, filed by Amgen on June 15, 2007 ("Fraser Decl. Exhibit 4"), (Docket No. 521), which has been submitted to the Court for *in camera* review.

As explained more fully in the accompanying Memorandum, Fresenius requests that two sentences of paragraph 8 of Fraser Decl. Exhibit 4 be redacted before that document is filed in the public record.

This information constitutes Fresenius' confidential and trade secret information and should not be disclosed in the public record. As grounds for this motion, Fresenius relies on the

accompanying Memorandum and Declaration of Robert McGorty, Fresenius' Vice President of Finance and Administration for the Fresenius Medical Services Division.

WHEREFORE, non-party Fresenius respectfully requests that the third and fourth sentences of Paragraph 8 of the Fraser Decl. Exhibit 4 be kept under seal and redacted before such document is placed into the public record.

Dated June 26, 2007

Respectfully submitted,
By: /s/ Mark J Hebert
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Counsel for Non-Party Fresenius
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CERTIFICATE PURSUANT TO LOCAL RULE 7.1(a)(2)

Undersigned counsel for Fresenius certifies that Fresenius has conferred in good faith with counsel for Amgen and Roche in an effort to resolve the issues raised by this motion, and has received consent of both Amgen and Roche for this motion. In particular, in a telephone call held on June 21, 2007, Jon Dubrow, counsel for Amgen, assented to Fresenius' above motion for leave to file under seal these trade secrets, and on June 22, 2007 Julian Brew, counsel for Roche, confirmed by e-mail Roche's assent to Fresenius' motion as well.

/s/ Mark J. Hebert
Mark J Hebert

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).

/s/ Mark J. Hebert
Mark J Hebert