

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 FOR SUMMARY JUDGMENT OF
INFRINGEMENT OF ‘422 CLAIM 1, ‘933 CLAIM 3 AND ‘698 CLAIM 4**

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 for Summary Judgment of Infringement of ‘422 Claim 1, ‘933 Claim 3, and ‘698 Claim 4 (Docket No. 509).¹

As set forth in greater detail below and in the accompanying declarations of Dr. Michael Jarsch (“Jarsch Decl.”), Dr. Krishnan Viswanidhan (“Viswanidhan Decl.”), and Susan Batcha (“Batcha Decl.”), Roche’s exhibits 1-11, 14-16, 18-25, 27-28, 32, 34-38, 41-45, 50-59, 61-63 (“the Exhibits”), which were submitted by Amgen for *in camera* review, contain sensitive and

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 from Amgen’s Declaration of Katie J.L. Scott in Support of Plaintiff Amgen Motion for Summary Judgment of Infringement of ‘422 Claim 1, ‘933 Claim 3, and ‘698 Claim 4 (Docket No. 514), and the confidential versions of Amgen’s memorandum of law (Docket No. 510), Statement of Facts Pursuant to Local Rule 56.1, (Docket No. 512), and Declaration of Harvey Lodish (Docket No. 513).

highly confidential trade secret information, the public disclosure of which would irreparably harm Roche's position in the highly competitive pharmaceutical industry.² Thus, Roche requests that the Exhibits — and the trade secret information from the Exhibits contained in Amgen's accompanying memorandum of law, statement of fact, and declaration of Harvey Lodish — be filed under seal.

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.

² While Roche maintains that all the exhibits submitted for *in camera* review are confidential documents, in light of the Court's requirement that only trade secrets be filed under seal, Roche is only moving to seal the above listed exhibits. If the Court determines that the remaining are necessary to decide Amgen's motion, Roche will assent their being filed in the public record.

DATED: Boston, Massachusetts
June 28, 2007

Respectfully submitted,

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

By their Attorneys,

/s/ Keith E. Toms

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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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