

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 SUBMITTED IN CONNECTION
WITH AMGEN INC.’S MOTION FOR SUMMARY JUDGMENT ON ROCHE’S
ANTITRUST AND STATE LAW COUNTERCLAIMS AND
IN CONNECTION WITH ROCHE’S OPPOSITION THERETO**

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 in connection with Amgen Inc.’s Motion for Summary Judgment on Roche’s Antitrust and State Law Counterclaims (Docket No. 518)¹ and Roche’s Opposition to Amgen’s Motion for Summary Judgment on Roche’s Antitrust and State Law Counterclaims, filed concurrently.²

¹ The documents Amgen seeks to file in the public record were submitted for *in camera* review on June 15, 2007 and correspond to Exhibits 1, 2, 5, 7-9, 11-18, 20-23 25-30, 33, 35-37, 41, 53, 59, 61, and 62 of the Declaration of James M. Fraser in Support of Amgen Inc.’s Motion for Summary Judgment on Roche’s Antitrust and State Law Counterclaims (Docket No. 521).

² The documents Roche seeks to file under seal were submitted for *in camera* review on June 29, 2007 and correspond to Exhibits 6-12, 21, 27, 31, 32, 34, 40, 43, 45-49, 64, 78-82, 84, 85, 122, 124-126, 139, 157, 162, 163, 166, 167, 185, 214, 215, 219, 220, 222, 223, 232, 244, 245, 249, 250, 253, and Exhibit A to the Declaration of Susan Graf, dated June 19, 2007, all of which are attached to the Declaration of David Cousineau in Support of Roche’s

Amgen Exhibits 1, 2, 5, 7-9, 11-18, 20-23, 25-30, 33, 35-37, 41, 53, 59, 61, and 62 (collectively, the “Amgen Exhibits”), and Amgen’s memorandum of law and statement of facts, contain Roche’s confidential and trade secret information, the public disclosure of which would irreparably harm Roche’s position in the highly competitive pharmaceutical industry.³ Roche Exhibits 6-12, 21, 27, 31, 32, 34, 40, 43, 45-49, 64, 78-82, 84, 85, 122, 124-126, 139, 157, 162, 163, 166, 167, 185, 214, 215, 219, 220, 222, 223, 232, 244, 245, 249, 250, 253, and Exhibit A to the Declaration of Susan Graf, dated June 19, 2007 (collectively, the “Roche Exhibits”), and Roche’s memorandum of law and response to Amgen’s statement of facts, similarly contain Roche’s confidential and trade secret information, and it would irreparably harm Roche if they were revealed in the public record. If the Court determines that some or all of the documents submitted to it for *in camera* review are unnecessary for its decision, then Roche requests that those documents not be filed under seal or in the public record.

For these reasons, Roche requests that both the Amgen Exhibits and the Roche Exhibits — and the trade secret information from the exhibits contained in Amgen’s accompanying memorandum of law and statement of facts and in Roche’s accompanying memorandum of law and response to Amgen’s statement of facts — be filed under seal if the Court determines that they are necessary for its determination of the underlying motion.

In support of this motion, Roche relies on the accompanying Memorandum of Law and the Declarations of Sonders Beimfohr, Steven Platt, Chrys Kokino, and Krishnan Viswanadhan. Dr. Viswanadhan’s Declaration was filed with the Court on June 28, 2007 (Docket No. 562).

Opposition to Amgen Inc.’s Motion for Summary Judgment on Roche’s Antitrust and State Law Counterclaims, filed concurrently .

³ 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 is only moving to seal the above listed exhibits. If the Court determines that the remaining exhibits are necessary to decide Amgen’s motion, Roche will assent to their being filed in the public record.

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 no agreement could be reached.

DATED: Boston, Massachusetts
June 29, 2007

Respectfully submitted,

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

By its Attorneys,

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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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