

EXHIBIT

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Fishman, Deborah

From: Keith E. Toms [Ktoms@bromsun.com]
Sent: Tuesday, July 10, 2007 6:17 PM
To: Fishman, Deborah
Cc: PCarson@kayescholer.com; mmayell@kayescholer.com; JMoore@kayescholer.com; Julia Huston
Subject: Ltr. To D. Fishman re: Confidential Documents Proposal
Attachments: Ltr. from K. Toms to D. Fishman 7-10-07.pdf; Keith E. Toms.vcf

Dear Deborah,

Please see attached.

Best regards,
Keith

<<Ltr. from K. Toms to D. Fishman 7-10-07.pdf>>

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<<Keith E. Toms.vcf>>

7/16/2007

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July 10, 2007

VIA EMAIL

Deborah E. Fishman, Esq.
Day Casebeer Madrid & Batchelder, LLP
20300 Stevens Creek Blvd., Suite 400
Cupertino, CA 95014

Re *Amgen Inc. v. F. Hoffmann-La Roche Ltd*, et al.
Our File 3099/501

Dear Deborah:

As we discussed, the following is Roche's proposed solution to the confidentiality issued raised by Judge Young's recent denials of the parties' motions to seal:

Amgen's Motion for Summary Judgment of Infringement of '422 Claim 1, '933 Claim 3, and '698 Claim 6

- (1) Amgen may file in the public record an unredacted copy of its memorandum of law in support of its motion for summary judgment of infringement (Docket No. 510).
- (2) Amgen may file in the public record an unredacted copy of its statement of undisputed fact pursuant to Local Rule 56.1 (Docket No. 512).
- (3) Amgen may file in the public record an unredacted copy of the Declaration of Harvey F. Lodish in support of its motion for summary judgment of infringement (Docket No. 513).
- (4) With the exception of Exhibits 5, 8, 9, 43, 45, 55, and 63, Amgen may publicly file all the exhibits to the Declaration of Katie J.L. Scott (Docket No. 514) in their entirety.

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Day Casebeer Madrid & Batchelder, LLP
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- (5) With respect to Exhibit 5, Roche will allow only the page labeled ITC-R-BLA-00004178 to be publicly filed, which is the page cited to in Paragraph 1 of Amgen's 56.1 statement. We are further willing to allow Amgen to supplement any citations to this exhibit with citations to Amgen's 56.1 statement or to alternative exhibits. Roche notes that the bulk of this highly sensitive 200 page document is unnecessary to Amgen's motion, and that, except for Paragraph 1 of the 56.1 statement, Amgen already cites to additional documents for each proposition that this exhibit is offered in connection with.
- (6) Exhibit 8 is similarly cumulative with other exhibits offered by Amgen, but Roche will allow the page cited to in Paragraph 13 of Amgen's 56.1 statement, ITC-R-BLA-00004667, to be publicly filed. Roche will also allow Amgen to supplement any citations to this exhibit with citations to Amgen's 56.1 or to alternative exhibits, but Roche believes that the other references to Paragraph 8 are merely cumulative with other exhibits offered by Amgen.
- (7) For Exhibit 9, Roche will only allow the page labeled ITC-R-BLA-00004987, which is cited in Paragraph 8 of Amgen's 56.1 statement, to be filed in the public record. As above, Amgen's other references to this highly sensitive document are cumulative with other documents that will be publicly released, and thus Roche will allow Amgen to supplement other references to this document with citations to Amgen's 56.1s statement or to an alternative exhibit.
- (8) Only pages R00008124, R000081253, and R000081258 of Exhibit 43 can be filed in the public record. To our knowledge, these are the only pages of this exhibit to which Amgen cites.
- (9) Only pages ITC-R-00050625-00050627 of Exhibit 45 can be filed in the public record. To our knowledge, these are the only pages to which Amgen cites.
- (10) To our knowledge, Exhibit 55 is only cited in Paragraph 22 of Amgen's 56.1 statement, and the quote it is cited for is found within the pages of Exhibit 45 that have been approved for public release. Thus, it is unnecessary for Amgen to file any portion of Exhibit 55.
- (11) Exhibit 63 can be publicly filed, provided that Tables 11 and 12, and Figure 13 are redacted. To our knowledge, Amgen does not rely on these figures, so we don't anticipate that their removal will be an issue.

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Amgen's Reply in Support of Its Motion for Summary Judgment of Infringement of Claim '422 Claim 1, '933 Claim 3, and '698 Claim 6

- (1) Amgen may file in the public record an unredacted version of its Reply brief in support of summary judgment of infringement (Docket No. 664).
- (2) Amgen may publicly file Exhibits 2-5 to the Declaration of Robert M. Galvin (Docket No. 665).
- (3) Furthermore, Amgen may publicly file Exhibit 1 to the Galvin Declaration, provided that Amgen removes pages 215-217, and redacts Table 1.

Amgen's Opposition to Roche's Motion for Summary Judgment that Claim 7 of the '349 Patent is Invalid Under 35 USC § 112 and is Not Infringed

- (1) Except for Exhibit 36 and 48, the exhibits to the Declaration of Cullen N. Pendleton (Docket No. 634) can be filed in the public record.
- (2) Exhibit 36 and 48 will not be filed or disclosed publicly, but any quotations or references to these Exhibits in Amgen's Opposition to Roche's motion for summary judgment may remain unchanged.

Best regards,



Keith E. Toms

KET/

cc Patricia Carson, Esq.
Manvin Mayell, Esq.
Julia Huston, Esq.

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