

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, IN THE ALTERNATIVE, TO STRIKE UNTIMELY
EXPERT TESTIMONY OF RALPH A. BRADSHAW REGARDING AMGEN’S
MOTION FOR SUMMARY JUDGMENT OF NO OBVIOUSNESS-TYPE
DOUBLE PATENTING**

Defendants (“Roche”) oppose¹ Amgen Inc.’s Motion to Strike Expert Testimony Regarding Amgen’s Motion for Summary Judgment of No Obviousness-Type Double Patenting, but if the Court allows the motion and strikes testimony of Dr. Harlow or Dr. Lowe, Defendants move, in that alternative, to strike the testimony of Amgen’s expert witness, Dr. Bradshaw. As grounds therefor, Roche asserts that, in Dr. Bradshaw’s declaration (Docket Item (“D.I.”) 504), specifically in paragraphs 33 and 34 of the declaration, he offers opinions never previously disclosed in any of his expert reports, and which therefore required rebuttal by Roche’s experts Dr. Harlow and Dr. Lowe.

¹ See Roche’s Opposition to Amgen Inc.’s Motion to Strike Expert Testimony Regarding Amgen’s Motion for Summary Judgment of No Obviousness-Type Double Patenting, filed contemporaneously herewith.

In the event that the Court grants Amgen's motion, then, for the reasons set forth above, the new opinions in paragraphs 33 and 34 of the Declaration of Dr. Ralph A. Bradshaw should be likewise stricken.

In support of this motion, Roche relies on the Memorandum in Support of Defendants' Motion, in the Alternative, to Strike Untimely Expert Testimony of Ralph A. Bradshaw Regarding Amgen's Motion for Summary Judgment of No Obviousness-Type Double Patenting, filed contemporaneously herewith.

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.

Dated: July 16, 2007
Boston, Massachusetts

Respectfully submitted,

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

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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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