

**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 TO RECONSIDER THIS
COURT'S JULY 5, 2007 ORDER DENYING NON-PARTY FRESENIUS' MOTION TO
SEAL, OR IN THE ALTERNATIVE, TO STAY THE ORDER PENDING APPEAL**

Non-party Fresenius Medical Care Holdings, Inc., d/b/a Fresenius Medical Care North America ("Fresenius"), hereby moves this Court to reconsider its Order issued July 5, 2007 denying 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 (the "Order"). As explained more fully in Fresenius' contemporaneously filed memorandum in support, the Order reflected manifest error, in that it did not reflect a weighing of the prejudice to Fresenius that will result if the documents requested to be sealed are filed publicly, versus the public's interest in access to the documents.

Should the Court decline to reconsider, Fresenius seeks a stay of the Order pending appeal, because enforcement of the Order prior to appellate review will irreparably harm Fresenius and destroy its rights to secure meaningful review.

Amgen and Roche, the parties in this Action, have both assented to this motion.

WHEREFORE, Fresenius respectfully requests that the Court reconsider the Order and reverse its prior ruling, or alternatively, impose a stay pending Fresenius' appeal of the Order.

Respectfully submitted,

Dated: July 17, 2007

By: /s/ Mark J Hebert
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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 or narrow the issues raised by this motion. Julian Brew, counsel for Roche, and Deborah Fishman, counsel for Amgen, both gave their consent to this motion in telephone conferences on July 17, 2007.

/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