

EXHIBIT 14

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United States District Court
District Of Massachusetts

****Confidential Pursuant To Section 5(c) of the
Amended Protective Order****

Deposition

Certified Copy

Of

Stuart H. Orkin, M.D.

(Exhibits Have Been Bound Separately)

June 5, 2007

Amgen, Inc.

v.

F. Hoffmann-La Roche, LTD

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6/5/2007

C O N F I D E N T I A L

Exhibits 1-21

Volume 1, Pages 1-236

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

Civil Action No. 05 Civ. 12237 WGY

AMGEN INC.,

Plaintiff

vs.

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

Defendants

VIDEOTAPED DEPOSITION OF STUART H. ORKIN, M.D.

Tuesday, June 5, 2007, 9:13 a.m.

Taken at: Bromberg & Sunstein

125 Summer Street

Boston, Massachusetts

*** TRANSCRIPT DESIGNATED CONFIDENTIAL ***
SUBJECT TO A PROTECTIVE ORDER

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1 what's been marked as Orkin Exhibit 5 and tell me if 10:33:54
2 you recognize this document. 10:34:00
3 A. Yes. I recognize this as the expert report 10:34:02
4 I submitted in I believe the year 2000. I can check 10:34:08
5 the signature page and see if that date's correct. 10:34:20
6 Yes, January 2000. 10:34:25
7 Q. And if you direct your attention to Page 15 10:34:28
8 of the report, bearing Bates No. AM-ITC 00857981, is 10:34:38
9 that your signature on that page? 10:34:39
10 A. That is my signature. 10:34:59
11 Q. Doctor, is there anything in this report 10:35:05
12 that you're aware of today as being inaccurate or 10:35:14
13 not stating the opinions that you had at the time 10:35:19
14 you signed that report? 10:35:22
15 A. Well, I'd have to read through the complete 10:35:24
16 report, but as far as I know, there's nothing that's 10:35:28
17 inaccurate in the report as of the date I signed it. 10:35:50
18 MR. DROZDOFF: I'd like the court 10:35:51
19 reporter to mark the next exhibit as Orkin Exhibit 10:35:55
20 6. It appears to be a document. It's entitled 10:36:16
21 Video Deposition of Stuart H. Orkin, M.D.; it bears 10:36:20
22 Bates range AM-ITC 00920915 through 00921111. 10:36:32
23 (Marked, Exhibit Orkin 6.) 10:36:38
24 Q. Doctor, I'd like to have you take a look at 10:36:42
25 that and tell me if you recognize this document.
26
27

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1	A. Yes. I believe this is a transcript of the	10:36:48
2	deposition in 2000.	10:36:56
3	Q. And when you testified in this deposition,	10:36:58
4	you were under oath --	10:37:03
5	A. I believe I was.	10:37:04
6	Q. -- just like you are today?	10:37:06
7	A. I believe I was.	10:37:07
8	Q. And you were prepared to give truthful and	10:37:09
9	accurate testimony?	10:37:10
10	A. I was.	10:37:51
11	Q. And, Doctor, I'd like to have you take a	10:37:54
12	look at Page 5 of your expert report from the TKT	10:38:05
13	case, which bears Bates No. AM-ITC 00857971.	10:38:15
14	A. I have that page.	10:38:18
15	Q. And let me direct your attention to	10:38:23
16	Paragraph 10. You state, "I was the project leader	10:38:27
17	on a research project entitled 'Molecular Aspects of	10:38:33
18	Globin Gene Switching and Cloning of Erythropoietin	10:38:35
19	Sequence' which was funded under a grant to	10:38:38
20	Dr. David G. Nathan from the National Institute of	10:38:42
21	Health."	10:38:43
22	A. That's correct; I see that.	10:38:44
23	Q. And can you explain what that research	10:38:48
24	project was?	10:38:51
25	A. This research project was a part of a	
26		
27		

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1 actually a criminal offense, isn't it? 11:41:43
2 MR. IZRAELEWICZ: Objection. He's not a 11:41:45
3 lawyer. 11:41:45
4 A. I don't know. 11:41:47
5 Q. Well, Doctor, I'd like you -- you see the 11:41:49
6 little Panel 18 where it says Certification and 11:41:53
7 Acceptance? 11:41:54
8 A. Okay, yes. I can barely read it. 11:41:57
9 Q. Right, but can you read it enough to read 11:42:00
10 that -- 11:42:01
11 A. "The best of my knowledge" -- 11:42:07
12 Q. The last sentence, "A willfully false 11:42:11
13 certification is a criminal offense"? 11:42:13
14 A. I see that. 11:42:14
15 Q. Do you see that? So this program project 11:42:20
16 grant was certified by a representative of 11:42:24
17 Children's Hospital as being true and complete? 11:42:30
18 A. I presume so. 11:42:33
19 Q. And you didn't have any reason to believe 11:42:35
20 that this application was true and complete with 11:42:37
21 respect to your part of the application? 11:42:39
22 A. I think it was true and complete. 11:42:42
23 MR. IZRAELEWICZ: Objection, 11:42:43
24 mischaracterizing the document, "true and complete." 11:42:57
25 Q. Doctor, I'd like to have you turn to Orkin
26
27

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1 Exhibit 6. It's a transcript of your deposition in 11:43:09
2 the TKT case, and I'd like to direct your attention 11:43:20
3 to Page 70 of your deposition. Can you go, please, 11:43:24
4 to Line 8? 11:43:35
5 A. I see that. 11:43:37
6 Q. And this was testimony you gave under oath, 11:43:41
7 wasn't it? 11:43:42
8 A. It was. 11:43:43
9 Q. And you were asked in this deposition, 11:43:47
10 question: "Did you agree with the majority of the 11:43:49
11 site visit committee in 1981 that there was a 11:43:52
12 reasonable chance of success in your attempts to 11:43:54
13 clone erythropoietin?" 11:43:57
14 Do you see that? 11:43:58
15 A. Yes. 11:43:58
16 Q. And you answered, "Well, I think if we 11:44:00
17 didn't think there was a reasonable chance of 11:44:02
18 success, we never would have embarked on the 11:44:04
19 experiments. Doesn't mean certainty, though." Is 11:44:09
20 that your answer? 11:44:10
21 A. That's my answer. 11:44:22
22 Q. And the only qualification you made as to a 11:44:26
23 reasonable chance of success was that it doesn't 11:44:28
24 mean certainty? 11:44:29
25 MR. IZRAELEWICZ: Objection,
26
27

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1 mischaracterizes his testimony. 11:44:32

2 A. As I said -- I think I answered this 11:44:35

3 previously -- what a chance of success is to one 11:44:39

4 person can be different than another. 11:44:40

5 Q. Well, at your deposition here, you said it 11:44:43

6 doesn't mean certainty, right? 11:44:44

7 A. That's right. That's, 100 percent -- it's 11:44:48

8 either 100 percent or zero. Those are the only 11:44:50

9 certainties. Anything in between could be a 11:44:53

10 reasonable chance of success. As I said before, if 11:44:56

11 I thought that the benefit to science or to the 11:45:02

12 field was sufficient, I would consider a few percent 11:45:07

13 a reasonable chance of success for the effort 11:45:10

14 involved. 11:45:12

15 I don't know what the legal definition 11:45:13

16 is, but from a personal standpoint, anything better 11:45:17

17 than zero is reasonable if I think it's important 11:45:20

18 enough. 11:45:22

19 Q. Doctor, do you ever have complete certainty 11:45:24

20 in science? 11:45:32

21 A. Probably not, but you get pretty close. 11:46:24

22 Q. Now, Doctor, in the project that you 11:46:29

23 undertook in connection with your program project 11:46:32

24 grant, your attempt to clone EPO involved not an 11:46:44

25 attempt to clone human erythropoietin, but an

26

27