

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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AMGEN INC., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 F. HOFFMANN-LA ROCHE LTD, )  
 ROCHE DIAGNOSTICS GMBH, )  
 AND HOFFMANN-LA ROCHE INC., )  
 )  
 Defendants )

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CIVIL ACTION No.: 05-CV-12237WGY

**DEFENDANTS’ MOTION *IN LIMINE* TO PRECLUDE AMGEN FROM PRESENTING EVIDENCE REGARDING (1) A 1993 SETTLEMENT AGREEMENT BETWEEN AMGEN AND GENETICS INSTITUTE AND (2) A 1989 DECISION THAT GENETICS INSTITUTE USED CELLS THAT INFRINGED THE ‘008 PATENT**

Defendants F. Hoffmann-La Roche Ltd, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively “Roche”) respectfully submit this Motion *In Limine* to preclude Plaintiff Amgen Inc. (“Amgen”) from presenting evidence regarding (1) a 1993 settlement agreement between Amgen and Genetics Institute and (2) a 1989 decision that Genetics Institute used cells that infringed the ‘008 patent at the upcoming jury trial. There is no merit to Amgen’s argument that Roche is bound or estopped in this case by certain prior actions or statements of corporations that are not Roche. Moreover, allowing Amgen to present evidence in support of its unfounded theories will needlessly prejudice Roche.

Accordingly, Roche respectfully requests that Amgen be precluded from presenting such evidence at the upcoming trial. In support of this motion, Roche relies on the accompanying Memorandum of Law.

**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 was reached.

Dated: August 20, 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/ Kimberly J. Seluga  
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