

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,)	
)	
Plaintiff,)	
)	Civil Action No.: 05 Civ. 12237 WGY
v.)	
)	
F. HOFFMANN-LAROCHE LTD.,)	
ROCHE DIAGNOSTICS GMBH, AND)	
HOFFMANN LAROCHE INC.,)	
)	
Defendants.)	

**PLAINTIFF AMGEN’S MOTION *IN LIMINE* NO. 6:
EXCLUDE REFERENCE TO AMGEN’S REQUEST FOR INJUNCTIVE RELIEF**

Pursuant to FRE 402 and 403, Plaintiff Amgen Inc. ("Amgen") requests that this Court preclude Defendants F. Hoffmann-La Roche Ltd., Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively "Roche") from referring to the fact that Amgen is seeking injunctive relief in this case and any alleged implication or effect of awarding injunctive relief, including alleged negative impacts on consumer choice, the pharmaceutical market, or patient health.

Amgen is seeking injunctive relief in this case, as is its right under 35 U.S.C. § 283. Because the issue of an injunction is not relevant to any issue to be decided by the jury, all references to Amgen’s requested injunction should be excluded from the jury’s hearing under FRE 402. Furthermore, if the possibility of injunctive relief is mentioned to the jury, it is likely to confuse or mislead the jury into deciding the infringement, validity or enforceability questions on nonlegal bases and should be excluded under FRE 403. It is likely that the jury would consider the implications of Amgen obtaining its injunctive relief, such as limiting consumer choice or supply, thus negatively affecting patients. For

these reasons, Amgen moves to preclude any argument, evidence or other reference to the fact that Amgen is seeking injunctive relief during the proceedings before the jury.

Amgen requests that this Court exclude any Roche argument or evidence concerning (a) the fact that Amgen is seeking injunctive relief; and (b) any alleged implication or effect of awarding injunctive relief, including alleged negative impacts on consumer choice, the pharmaceutical market, or patient health, as irrelevant under FRE 402 and substantially confusing and prejudicial under FRE 403.

In support of this motion, Amgen submits a brief.

Respectfully Submitted,

Date: August 20, 2007

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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 no agreement was reached.

/s/ Michael R. Gottfried
Michael R. Gottfried

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the Electronic Case Filing (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/ Michael R. Gottfried
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