

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN, INC.,)	
)	
Plaintiff,)	
v.)	
)	Civil Action No. 05 CV 12237 WGY
F. HOFFMANN-LAROCHE LTD.,)	
a Swiss Company, ROCHE DIAGNOSTICS)	
GMBH, a German Company, and)	
HOFFMANN LAROCHE INC., a New)	
Jersey Corporation,)	
)	
Defendants.)	

**PLAINTIFF AMGEN’S MOTION *IN LIMINE* NO. 12:
EXCLUDE REFERENCE TO AMGEN’S “MONOPOLY” AND THE PATENTS-IN-SUIT
AS LIMITING CONSUMER CHOICE**

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 arguing or introducing evidence during infringement, validity or enforceability proceedings that Amgen’s patents-in-suit constitute “monopolies,” or that assertion of Amgen’s patent rights will constitute monopolistic or anticompetitive behavior or limit consumer choice. Although patents are sometimes loosely described as granting a “legal monopoly” to the inventor, the law is well-established that patents are not to be regarded as monopolies, and that it is improper to characterize the exercise of patent rights as monopolistic or anticompetitive behavior.

Amgen requests that this Court preclude the following arguments and evidence during the infringement, validity and enforceability proceedings under FRE 402 and 403:

- a. Any reference to Amgen’s patents-in-suit as “monopolies” or that Amgen’s patent enforcement constitutes anticompetitive or monopolistic behavior;
- b. That Amgen’s patent enforcement will limit or negatively affect consumer choice.

In support of this motion, Amgen submits a brief.

Date: August 20, 2007

Respectfully Submitted,
AMGEN INC.,
By its attorneys,

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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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