

**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. 21:
EXCLUDE INTRODUCTION OF OPINIONS OR SUPPORTING EVIDENCE NOT
PREVIOUSLY IDENTIFIED IN EXPERT REPORTS**

Pursuant to FRCP 26(a)(2)(B) and 37(c)(1), Amgen moves to exclude expert opinions that were not contained in Roche’s expert reports but rather were disclosed for the first time in declarations filed in connection with summary judgment motions, after the experts were deposed.

Under FRCP 26, an expert report must contain a complete set of opinions about which the expert may testify. By submitting expert declarations containing new opinions after the close of expert discovery, Roche violated its expert discovery responsibilities. Roche provided these brand new expert opinions after Amgen deposed the particular experts, thereby denying Amgen the opportunity to examine the experts as to their new opinions.

Amgen requests an order under Rule 26 and Rule 37 precluding Roche from offering at trial expert opinions that were revealed for the first time in declarations filed after the close of expert discovery.

In support of this motion, Amgen submits a brief.

Date: August 29, 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/ Patricia R. Rich
Patricia R. Rich

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/ Patricia R. Rich
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