Case 1:05-cv-12237-WGY

#### EXHIBIT A

## [PROPOSED] SPECIAL VERDICT FORM

#### **INFRINGEMENT**

Q.1. Considering each claim separately, did Amgen persuade you that it is more likely than not that Roche's MICERA product infringes the following claims of U.S. Patent No. 5,547,933 (the "'933 Patent")?

(a "yes" answer is an answer for Amgen and a "no" answer is an answer for Roche)

Claim 3	Yes	No
Claim 7	Yes	No
Claim 9	Yes	No
Claim 10	Yes	No
Claim 11	Yes	No
Claim 14	Yes	No

Claim 1	Yes	No
Claim 2	Yes	No

Q.3. Considering each claim separately, did Amgen persuade you that it is more likely than not that Roche's MICERA product infringes the following claims of U.S. Patent No. 5,618,698 (the "'698 Patent")?

(a "yes" answer is an answer for Amgen and a "no" answer is an answer for Roche)

Claim 6	Yes	No
Claim 7	Yes	No
Claim 8	Yes	No
Claim 9	Yes	No

Q.4. Con	sidering ea	ch claim separately, d	id Amgen persua	de you that it is more likely than			
not that Roc	not that Roche's MICERA product infringes the following claims of U.S. Patent No. 5,756,349						
(the "'349 ]	Patent")?						
(a "yes" ans	swer is an a	nnswer for Amgen and	l a "no" answer is	s an answer for Roche)			
Clai	m 7	Yes	No				
		IN	VALIDITY				
		<u>.,</u>	422 Patent				
anticipated	and therefo	ore invalid?		claim 1 of the '422 patent is an answer for Roche)			
Yes			No	-			
obvious and	therefore	invalid?		claim 1 of the '422 patent is an answer for Roche)			
Yes			No	-			

Q.8. Did Roche prove by clear and convincing evidence that claim 1 of the '422 patent is not enabled and therefore invalid?

(a "no" answer is an answer for Amgen and a "yes" answer is an answer for Roche)

Yes\_\_\_\_\_ No\_\_\_\_\_

### '933 Patent

Q.9. Considering each claim separately, did Roche prove by clear and convincing evidence that any of the following claims of the '933 patent is anticipated and therefore invalid? (a "no" answer is an answer for Amgen and a "yes" answer is an answer for Roche)

No\_\_\_\_\_ Claim 3: Yes\_\_\_\_\_ Yes No Claim 7: Claim 9: Yes\_\_\_\_\_ No\_\_\_\_\_ Claim 10: Yes\_\_\_\_\_ No\_\_\_\_\_ Yes No Claim 11: Claim 14: Yes\_\_\_\_\_ No\_\_\_\_\_ Q.10. Considering each claim separately, did Roche prove by clear and convincing evidence that any of the following claims of the '933 patent is obvious and therefore invalid?

(a "no" answer is an answer for Amgen and a "yes" answer is an answer for Roche)

No\_\_\_\_\_

 Claim 3:
 Yes\_\_\_\_\_\_
 No\_\_\_\_\_\_\_

 Claim 7:
 Yes\_\_\_\_\_\_
 No\_\_\_\_\_\_\_

 Claim 9:
 Yes\_\_\_\_\_\_
 No\_\_\_\_\_\_\_

 Claim 10:
 Yes\_\_\_\_\_\_
 No\_\_\_\_\_\_\_

 Claim 11:
 Yes\_\_\_\_\_\_
 No\_\_\_\_\_\_\_

Yes\_\_\_\_\_

Claim 14:

Q.11. Considering each claim separately, did Roche prove by clear and convincing evidence that any of the following claims of the '933 patent is not enabled and therefore invalid?							
(a "no" answer is an	answer for Amgen	and a "yes" answer is an answer for Roche)					
Claim 3:	Yes	No					
Claim 7:	Yes	No					
Claim 9:	Yes	No					
Claim 10:	Yes	No					
Claim 11:	Yes	No					
Claim 14:	Yes	No					
<u>'349 Patent</u>							
Q.12. Did Roche pr	ove by clear and cor	nvincing evidence that Claim 7 of the '349 patent is					
obvious and therefor	-						
(a "no" answer is an	answer for Amgen	and a "yes" answer is an answer for Roche)					

No\_\_\_\_\_

Yes\_\_\_\_\_

Q.13.	Did Roche p	prove by clear and	d convincing evidenc	the that claim 7 of the '349 patent is	
indefi	inite and there	efore invalid?			
(a "no	o" answer is a	n answer for Am	gen and a "yes" ansv	ver is an answer for Roche)	
	Yes		No		
Q.14.	Did Roche p	prove by clear and	d convincing evidence	ee that claim 7 of the '349 patent fails t	0
meet	the written de	scription require	ment and is therefore	e invalid?	
(a "no	o" answer is a	n answer for Am	gen and a "yes" ansv	ver is an answer for Roche)	
	Yes		No		
Q.15.	Did Roche p	prove by clear and	d convincing evidenc	the that claim 7 of '349 patent is not	
enable	ed and therefo	ore invalid?			
(a "no	o" answer is a	n answer for Am	gen and a "yes" ansv	ver is an answer for Roche)	
	Yes		No		
			<u> '868 Patent</u>		
Q.16.	Considering	g each claim sepa	arately, did Roche pro	ove by clear and convincing evidence	
that a	ny of the follo	owing claims of t	he '868 patent is inva	alid because of obviousness-type doub	le
paten	ting over any	claim of prior U.	S. Patent No. 5,703,	,008?	
(a "no	o" answer is a	n answer for Am	gen and a "yes" ansv	ver is an answer for Roche)	
	Claim 1:	Yes	_	No	
	Claim 2:	Yes	_	No	

Q.17. Considering each claim separately, did Roche prove by clear and convincing evidence that

(a "no	" answer is an	answer for Amgen and a "yes" answe	er is an answer for Roche)
	Claim 1:	Yes	No
	Claim 2:	Yes	No
		<b>'698 Patent</b>	
Q.18.	Considering e	ach claim separately, did Roche prove	e by clear and convincing evidence
that an	y of the follow	ing claims of the '698 patent is invalid	d because of obviousness-type double
patenti	ing over any cla	aim of prior U.S. Patent No. 5,703,00	8?
(a "no	" answer is an a	answer for Amgen and a "yes" answer	is an answer for Roche)
	Claim 6:	Yes	No
	Claim 7:	Yes	No
	Claim 8:	Yes	No
	Claim 9:	Yes	No

Q.19. Considering each claim separately, did Roche prove by clear and convincing evidence that any of the following claims of the '698 patent is obvious and therefore invalid? (a "no" answer is an answer for Amgen and a "yes" answer is an answer for Roche)

Claim 6: Yes\_\_\_\_\_ No\_\_\_\_\_

Claim 7: Yes\_\_\_\_\_ No\_\_\_\_\_

Claim 8: Yes No

No Yes Claim 9:

Q.20. Considering each claim separately, did Roche prove by clear and convincing evidence that any of the following claims in the '698 patent is indefinite and therefore invalid? (a "no" answer is an answer for Amgen and a "yes" answer is an answer for Roche)

Claim 6: Yes\_\_\_\_\_ No\_\_\_\_\_

Claim 7: Yes No

Claim 8: Yes\_\_\_\_\_ No\_\_\_\_\_

Claim 9: Yes\_\_\_\_\_ No\_\_\_\_\_

Q.21. Considering each claim separately, did Roche prove by clear and convincing evidence that any of the following claims of the '698 patent fails to meet the written description requirement and is therefore invalid?

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				0		,					,

Claim 6: Yes\_\_\_\_\_ No\_\_\_\_\_

Claim 7:

Yes\_\_\_\_\_

No\_\_\_\_\_

Claim 8:

Yes\_\_\_\_\_

No\_\_\_\_\_

Claim 9:

Yes\_\_\_\_\_

No\_\_\_\_\_

Q.22. Considering each claim separately, did Roche prove by clear and convincing evidence that any of the following claims of the '698 patent is not enabled and therefore invalid? (a "no" answer is an answer for Amgen and a "yes" answer is an answer for Roche)

Claim 6:

Yes\_\_\_\_\_

No\_\_\_\_\_

Claim 7:

Yes\_\_\_\_\_

No\_\_\_\_\_

Claim 8:

Yes\_\_\_\_\_

No\_\_\_\_\_

Claim 9:

Yes\_\_\_\_\_

No\_\_\_\_\_

# **INEQUITABLE CONDUCT**

-	nd convincing evidence that the '422 Patent is unenforceanble conduct before the U.S. Patent and Trademark Office	
(a "no" answer is an answer for Am	gen and a "yes" answer is an answer for Roche)	
Yes	No	
- · ·	d convincing evidence that the '933 Patent is unenforceabable conduct before the U.S. Patent and Trademark Office	
(a "no" answer is an answer for Am	igen and a "yes" answer is an answer for Roche)	
Yes	No	
- · · · · · · · · · · · · · · · · · · ·	nd convincing evidence that the '349 Patent is unenforceanable conduct before the U.S. Patent and Trademark Office	
(a "no" answer is an answer for Am	gen and a "yes" answer is an answer for Roche)	
Yes	No	
because Amgen engaged in inequita	d convincing evidence that the '868 Patent is unenforceal able conduct before the U.S. Patent and Trademark Office agen and a "yes" answer is an answer for Roche)	
(a no answer is an answer for Ann	gen and a yes answer is an answer for Roche)	
Yes	No	

Q.27. Di	id Roche pr	ove by clear an	nd convincing	evidence that	the '698 Pa	tent is unenfo	orceable
because A	Amgen eng	aged in inequit	table conduct l	before the U.S	. Patent and	Trademark (	Office?

(a "no" answer is an answer for Amgen and a "yes" answer is an answer for Roche)

Yes No
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