

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	CIVIL ACTION No.: 05-CV-12237-WGY
F. HOFFMANN-LA ROCHE LTD)	
ROCHE DIAGNOSTICS GmbH)	
and HOFFMANN-LA ROCHE INC.)	
)	
Defendants.)	
_____)	

**DEFENDANTS’ MOTION *IN LIMINE* TO PRECLUDE PLAINTIFF FROM
OBJECTING TO DEPOSITION DESIGNATIONS IN LIEU OF LIVE
TESTIMONY**

Defendants F. Hoffmann-La Roche, Ltd, Roche Diagnostics GmbH and Hoffmann-La Roche Inc. (collectively, “Roche”) submit this Motion *in Limine* to preclude Amgen from objecting to Defendants’ use of deposition designations in lieu of live testimony. In its portion of the parties’ Joint Pretrial Memorandum (the “PTM”), Amgen objected to Roche’s inclusion of several Amgen fact witnesses in its list of witnesses to be called at trial, on the basis that requiring those witnesses to appear live will “unnecessarily disrupt the lives and schedules of Amgen’s witnesses, and will preclude Amgen from presenting its own case effectively and in an orderly fashion.” (PTM at p. 13, D.N. 807).

In a good faith effort to assuage Amgen’s concerns, Roche designated Joan Egrie, Eugene Goldwasser, Steven Elliot, and Thomas Strickland in lieu of requesting their live testimony. In an inexplicable about-face, Amgen now objects to Roche’s designations, and argued that these witnesses must be called live.

Accordingly, Roche respectfully requests that that the Court permit Roche, over Amgen's objection, to offer the testimony of the identified witnesses by deposition in its case in chief, as Amgen itself argued for in the PTM. 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: September 1, 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 certify that, on the above date, 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.

/s/ Keith E. Toms
Keith E. Toms