

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,	)	
	)	
Plaintiff,	)	
	)	
V.	)	
F. HOFFMANN-LA ROCHE LTD, a Swiss	)	Civil Action No.:1:05-cv-12237 WGY
Company, ROCHE DIAGNOSTICS GMBH, a	)	
German Company, and HOFFMAN LA	)	
ROCHE INC., a New Jersey Corporation,	)	
	)	
Defendant	)	

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**AMGEN INC.’S COVENANT NOT TO SUE DEFENDANTS FOR  
INFRINGEMENT OF CLAIMS 4 AND 5 OF THE ‘698 PATENT**

Amgen Inc., on behalf of itself and any successors-in-interest to United States Patent No. 5,618,698 (the “’698 Patent”), hereby unconditionally and irrevocably covenants not to assert patent infringement (including direct infringement, contributory infringement, and inducing infringement) against F. HOFFMANN-LA ROCHE LTD, a Swiss Company, ROCHE DIAGNOSTICS GMBH, a German Company, and HOFFMAN LA ROCHE INC., a New Jersey Corporation (collectively, “Defendants”) under claims 4 and 5 of the ‘698 patent.<sup>1</sup> This covenant covers any and all methods, processes, and products made, used, offered for sale, sold, or imported by any Defendants, at any time, whether before or after the date of this covenant. As used in this covenant, “products” broadly includes any glycosylated erythropoietin polypeptide (whether or not such polypeptide has polyethyleneglycol attached to it.) This covenant does not extend to any affiliate or customer of Defendants.

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<sup>1</sup> By this covenant, Amgen is not withdrawing its claims with respect to any other claims of the ‘698 patent or its claims with respect to any other patents at issue in this litigation.

In granting this covenant to Defendants, Amgen in no way concedes Defendants' allegations that claims 4 and 5 or that any claim of the '698 patent is invalid, unenforceable, or not infringed. To the contrary, Amgen categorically rejects all such claims by Defendants.

Dated: September 3, 2007

Respectfully Submitted,

AMGEN INC.,  
By its attorneys,

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**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing 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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Patricia R. Rich