

Johnson & Johnson sues Amgen over sales tactics

By [Andrew Pollack](#) The New York Times

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NEW YORK In the latest skirmish over the best-selling drug ever created by biotechnology, Johnson & Johnson has filed an antitrust suit accusing a rival, Amgen, of using illegal leverage to try to drive its drug, Procrit, out of the market.

In the lawsuit, filed on Tuesday in Trenton, New Jersey, Johnson & Johnson said Amgen was bundling sales of its drugs in a way that forced cancer clinics to buy Amgen's Aranesp at the expense of Procrit.

A spokeswoman for Amgen, Mary Klem, said, "We believe the allegations are not legitimate, and we intend to fight this."

Aranesp and Procrit are versions of erythropoietin, a protein that improves the body's production of red blood cells. Combined sales to American cancer clinics, which use the drugs to treat anemia caused by chemotherapy, are expected to be \$2.8 billion this year, the lawsuit said.

Amgen sells two other drugs, Neulasta and Neupogen, that increase production of infection-fighting white blood cells and are used to treat a different side effect of chemotherapy. Amgen has about 98 percent of the market, a virtual monopoly, according to the lawsuit. Johnson & Johnson does not sell a similar product.

Johnson & Johnson accused Amgen of giving cancer clinics bigger discounts on Neulasta and Neupogen - drugs they cannot do without - if they buy more Aranesp. Without the discounts, the lawsuit contends, clinics would lose money on Neulasta when reimbursed by Medicare.

"Forcing physicians who treat cancer patients to abandon Procrit as the only economically viable way to gain access to another badly needed drug for their patients is not, by any measure, in the public interest," the lawsuit says.

The complaint says Procrit's market share in cancer clinics has fallen to 34 percent, from 55 percent in the first quarter of 2004. It asks the court to order Amgen to stop the sales practice in question and pay triple damages.

Amgen and Johnson & Johnson have been feuding almost ever since Amgen, as a young company in need of cash, licensed Procrit to Johnson & Johnson in 1985. A few years ago,

Amgen, now the world's biggest biotechnology company, came out with Aranesp, which can be given less frequently than Procrit, and began competing with its former partner.

Ronald Renaud Jr., an analyst at J.P. Morgan who recommends Amgen stock, said Johnson & Johnson was "grasping at straws" with the lawsuit.

"We maintain that the most significant driver behind Aranesp's success has been the less frequent dosing when compared to Procrit," Renaud wrote in a note to clients. "Keeping a cancer patient from having to return to the oncologist's office any more than necessary is a powerful incentive to use both Aranesp and Neulasta."

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