

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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AMGEN INC.,)		
)		
Plaintiff,)		
)		
vs.)		
)	CIVIL ACTION No.:	05-CV-12237WGY
F. HOFFMANN-LA ROCHE LTD,)		
ROCHE DIAGNOSTICS GMBH,)		
AND HOFFMANN-LA ROCHE INC.,)		
)		
Defendants)		
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**ROCHE’S MOTION FOR LEAVE TO FILE A SUR-REPLY IN RESPONSE TO
PLAINTIFF AMGEN INC.’S PROPOSED REPLY IN FURTHER SUPPORT OF ITS
MOTION *IN LIMINE* NO. 17: TO EXCLUDE ROCHE FROM PRESENTING
EVIDENCE TO CHALLENGE THE NON-OBVIOUSNESS OF THE DNA SEQUENCE
ENCODING FOR HUMAN ERYTHROPOIETIN IN 1983**

Defendants F. Hoffman-La Roche Ltd, Roche Diagnostics GmbH, and Hoffman-La Roche Inc. (“Roche”) respectfully request leave to file a sur-reply to Amgen Inc.’s Proposed Reply In Support of Its Motion *in Limine* No. 17: To Exclude Roche From Presenting Evidence to Challenge the Non-Obviousness of the DNA Sequence Encoding for Human Erythropoietin in 1983 (D.I. 1003), in the event that the Court grants Amgen’s motion for leave to file a reply. Roche’s proposed sur-reply brief is attached hereto as Exhibit A.

In support of this motion, Roche states that its proposed sur-reply brief is primarily limited to the issues raised in Amgen’s proposed reply, is concise, and will be of assistance to the Court.

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 14, 2007
Boston, Massachusetts

Respectfully submitted,

F. HOFFMANN-LA ROCHE LTD,
ROCHE DIAGNOSTICS GMBH, and
HOFFMANN-LA ROCHE INC.

By their 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 (NEF). Pursuant to agreement of counsel dated September 9, 2007, paper copies will not be sent to those indicated as non registered participants.

/s/ Nicole A. Rizzo

Nicole A. Rizzo

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