

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

AMGEN, INC.,

Plaintiff,

v.

F. HOFFMANN-LA ROCHE Ltd, a Swiss  
Company, ROCHE DIAGNOSTICS GmbH, a  
German Company and HOFFMANN-LA ROCHE  
INC., a New Jersey Corporation,

Defendants.

Civil Action No. 05-12237 WGY

U.S. District Judge Young

**DECLARATION OF KRISTA M. RYCROFT IN SUPPORT OF DEFENDANTS' OFFER  
OF PROOF REGARDING THE TESTIMONY OF MICHAEL SOFOCLEOUS**

Leora Ben-Ami (*pro hac vice*)  
Mark S. Popofsky (*pro hac vice*)  
Patricia A. Carson (*pro hac vice*)  
Thomas F. Fleming (*pro hac vice*)  
Howard S. Suh (*pro hac vice*)  
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Dated: Boston, Massachusetts  
September 14, 2007

*Counsel for Defendants  
F. Hoffmann-La Roche Ltd,  
Roche Diagnostics GmbH, and  
Hoffmann-La Roche Inc.*

I, KRISTA M. RYCROFT, hereby declare under penalty of perjury that:

1. I am an attorney admitted to the Bar of the State of New York and am an associate in the law firm of Kaye Scholer LLP, counsel for Defendants in the above captioned case.

2. I make this declaration in support of Defendants' Offer ff Proof Regarding the Testimony of Michael Sofocleous.

3. Attached hereto as Exhibit 1 is a true and correct copy of the *Curriculum Vitae* of Michael Sofocleous (Trial Ex. PIP).

4. Attached hereto as Exhibit 2 is a true and correct copy of the Manual of Patent Examining Procedure ("MPEP") (5<sup>th</sup> ed. Rev. 13, Nov. 1989) (Trial Ex. PKB).

5. Attached hereto as Exhibit 3 is a true and correct copy of the MPEP (8<sup>th</sup> ed. Rev. 5, Aug. 2006) (Trial Ex. PKD).

6. Attached hereto as Exhibit 4 is a true and correct copy of a January 3, 1994 IDS submitted in the file history of Amgen's '868 patent (Trial Ex. 2012.951-977).

7. Attached hereto as Exhibit 5 is a true and correct copy of MPEP § 609 (8<sup>th</sup> ed. Aug. 2001) (Trial Ex. PKC at 600-116-136).

8. Attached hereto as Exhibit 6 is a true and correct copy of "Guidelines for Reexamination of Cases in view of In Re Portola Packaging," 1223 OG 124 (June 1999) (Trial Ex. PZG).

9. Attached hereto as Exhibit 7 is a true and correct copy of MPEP § 609 (5<sup>th</sup> ed. Rev. 14, Nov. 1992) (Trial Ex. PLX).

10. Attached hereto as Exhibit 8 is a true and correct copy of GAO/RCED-89-120BR, *Biotechnology: Backlog of Patent Applications* (April 1989) (Trial Ex. POZ).

11. Attached hereto as Exhibit 9 is a true and correct copy of a Petition to Make Special in the file history for Amgen's '868 Patent (Trial Ex. 2012.179-180).

12. Attached hereto as Exhibit 10 is a true and correct copy of a Declaration Accompanying a Petition to Make Special in the file history for the '868 patent (Trial Ex. 2012.126-132).

13. Attached hereto as Exhibit 11 is a true and correct copy of a written decision on a Petition to Make Special in the file history of the '868 patent (Trial Ex. 2012.169).

14. Attached hereto as Exhibit 12 is a true and correct copy of a Protest of Inventorship in the file history for the '868 patent (Trial Ex. 2012.796-801).

15. Attached hereto as Exhibit 13 is a true and correct copy of an office action in the file history for the '868 patent (Trial Ex. 2012.907-918).

16. Attached hereto as Exhibit 14 is a true and correct copy of an Examiner Interview Summary Record in the file history of the '868 patent (Trial Ex. 2012.449).

17. Attached hereto as Exhibit 15 is a true and correct copy of a Decision on Motions from Interference No. 102,096 (Trial Ex. BYJ).

18. Attached hereto as Exhibit 16 is a true and correct copy of a Declaration for Patent Application in the file history of the '868 patent (Trial Ex. 2012.112).

DATED: September 14, 2007

*/s/ Krista M. Rycroft*  
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Krista M. Rycroft

**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/ Keith E. Toms

Keith E. Toms

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