

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,

Plaintiff,

v.

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

Defendants.

Civil Action No.: 05-12237 WGY

**AMGEN INC.'S MOTION FOR JUDGMENT AS A MATTER
OF LAW PURSUANT TO RULE 50(a)**

Amgen hereby moves for Judgment as a Matter of Law pursuant to Fed. R. Civ. P. 50 (a) with respect to the following defenses asserted by Roche:

1. '933 Patent, claims 3, 7, 8, 9, 11, 12 and 14: obviousness, anticipation, lack of written description and indefiniteness
2. '422 Patent, claim 1: obviousness, anticipation, lack of written description
3. '349 Patent, claim 7: obviousness, anticipation, lack of written description, indefiniteness
4. '868 Patent, claims 1 and 2: obviousness, lack of written description and indefiniteness
5. '698 Patent, claims 6-9: obviousness and lack of written description

This motion is made on the grounds set forth in the accompanying Memorandum, and in particular on the grounds that Roche has failed, as to each defense, to present prima facie evidence from which a reasonable jury, applying a clear and convincing standard of proof, could find in favor of Roche on each such defense.

September 25, 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 on-registered participants.

/s/ Patricia R. Rich
Patricia R. Rich