

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

AMGEN, INC.,

Plaintiff,

v.

F. HOFFMANN-LA ROCHE, LTD, ROCHE
DIAGNOSTICS GmbH, HOFFMANN-LA
ROCHE INC.,

Defendants.

Civil Action No. 05-12237 WGY

U.S. District Judge Young

**DEFENDANTS' MOTION FOR JUDGMENT AS A MATTER OF LAW
REGARDING INVALIDITY**

Defendants F. Hoffmann-La Roche, Ltd, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc. (collectively "Roche") hereby moves for Judgment As A Matter Of Law Regarding Invalidity.

Roche has presented substantial evidence to allow a reasonable jury to conclude by clear and convincing evidence that each asserted claim is invalid. Moreover, Amgen has presented no competent evidence to defeat Roche's clear and convincing evidence. Accordingly, a reasonable jury could be led to make just one conclusion: the claims-in-suit are invalid. This motion is made on the grounds set forth in the accompanying Memorandum.

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 could be reached.

Dated: October 4, 2007
Boston, Massachusetts

Respectfully submitted,

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

By their Attorneys,

/s/ Nicole A. Rizzo

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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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