

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,)	
)	
Plaintiff,)	
)	Civil Action No.: 05-12237 WGY
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.)	
_____)	

**DECLARATION OF CULLEN N. PENDLETON IN
SUPPORT OF AMGEN INC.’S MOTION TO SHIFT BURDEN
OF PROOF FOR ‘349 CLAIM 7 PURSUANT TO 35 U.S.C. § 295**

I, Cullen N. Pendleton, hereby declare under penalty of perjury that:

1. I am an attorney admitted to the Bar of the State of Illinois and am an associate in the law firm of Marshall, Gerstein & Borun LLP, counsel for Plaintiff Amgen, Inc. in the above-captioned case.
2. I make this declaration in support of Amgen Inc.’s Bench Memorandum Regarding Roche’s Burden of Proof Pursuant to 35 U.S.C. § 295.
3. Statements made herein are based on my firsthand, personal knowledge.
4. Exhibit 1 is a true and correct copy of email correspondence dated from April 19, 2007 to May 4, 2007 between Ms. Patricia Carson, counsel for Defendants in the above-captioned case, and Dr. Kevin M. Flowers, counsel for Plaintiff in the above-captioned case.

5. Exhibit 2 is a true and correct copy of a letter from Ms. Patricia Carson to Dr. Kevin M. Flowers, dated April 19, 2007.

Dated: October 10, 2007

/s/ Cullen N. Pendleton
Cullen N. Pendleton

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 non-registered participants on October 10, 2007.

/s/ Michael R. Gottfried
Michael R. Gottfried