

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN INC.,)
)
 Plaintiff,)
)
 vs.)
)
 F. HOFFMANN-LA ROCHE LTD.,)
 ROCHE DIAGNOSTICS GmbH,)
 HOFFMANN-LA ROCHE INC.,)
)
 Defendants)

CIVIL ACTION No.: 05-CV-12237WGY

**DEFENDANTS’ MOTION FOR LEAVE TO FILE SURREPLY
TO AMGEN’S REPLY BRIEF IN SUPPORT OF ITS MOTION
TO DISMISS ROCHE’S COUNTERCLAIMS COUNTS I-IX AND XII**

Defendants F. Hoffmann-La Roche LTD, Roche Diagnostics GmbH and Hoffmann-La Roche Inc. (“Roche”) hereby seek leave to file the attached surreply in response to Amgen’s Reply Brief In Support Of Its Motion to Dismiss Roche’s Counterclaims Counts I-IX and XII (Docket No. 182). As grounds for this motion, Roche states that the 6-page surreply is limited to the antitrust standing issues raised for the first time in Amgen’s reply, and will assist the Court in ruling on the pending motion because it further demonstrates that Roche has standing to assert all of its antitrust claims (including the state law claims to which Amgen raises the same objection).

At the motion hearing held on December 20, 2006, the Court declined to allow Roche to present further oral argument in response to the standing issues raised in Amgen’s reply, but suggested that additional papers could be submitted. Accordingly, Roche requests that this motion be granted.

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.

Dated: December 22, 2006
Boston, Massachusetts

Respectfully submitted,

F. HOFFMANN-LA ROCHE LTD.,
ROCHE DIAGNOSTICS GMBH, and
HOFFMANN-LA ROCHE 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 (NEF) and paper copies will be sent to those indicated as non registered participants on the above date.

/s/ Julia Huston
Julia Huston