

**UNITED STATES DISTRICT COURT  
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.: 1:05-cv-12237 WGY

**DECLARATION OF WILLIAM G. GAEDE, III, IN SUPPORT OF  
AMGEN INC.'S OPPOSITION TO DEFENDANTS' MOTION TO COMPEL  
PRODUCTION OF DOCUMENTS IMPROPERLY  
WITHHELD ON GROUNDS OF PRIVILEGE**

I, William G. Gaede, III, declare as follows:

1. I am a partner with McDermott Will & Emery LLP and counsel for Amgen, Inc. in the above-captioned matter.

2. I am submitting this declaration in support of Amgen Inc.'s Opposition to Defendants' Motion to Compel Production of Documents Improperly Withheld on Grounds of Privilege. I have knowledge of the following, and if called as a witness, could and would testify competently to the contents herein.

3. Attached as Exhibit 1 is a true and correct copy of Amgen's Rebuttal Chart to Defendants' Summaries of Excerpts of Deposition and Trial Testimony Cited in Defendants' Memorandum. Exhibit 1 contains information that Roche has asserted is attorney client privileged material of Amgen's and therefore, Amgen has filed a motion seeking to have the court deem Exhibit 1 confidential.

4. Attached as Exhibit 2 is a true and correct copy of "Memorandum in Support of Amgen's Motion for Summary Judgment of No Inequitable Conduct," from *Amgen v. Hoechst*

*Marion Roussel*, Case No. 97-10814-WGY, Bates numbered AM-ITC 00832569 – AM-ITC 00832590, dated February 23, 2000.

5. Attached as Exhibit 3 is a true and correct copy of “Amgen’s Reply in Support of Amgen’s Motion for Summary Judgment of No Inequitable Conduct,” from *Amgen v. Hoechst Marion Roussel*, Case No. 97-10814-WGY, Bates numbered AM-ITC 00835589 - AM-ITC 00835625, dated March 21, 2000.

6. Attached as Exhibit 4 is a true and correct copy of selected pages from the Transcript of Day Three of Proceedings from *Hoechst Marion Roussel v. Kirin-Amgen Inc.*, held in London, at the High Court of Justice, Chancery Division, Patent Court, Bates numbered AM-ITC 01066578, AM-ITC 01066611. AM-ITC 01066618, held February 6, 2002.

7. Attached as Exhibit 5 is a true and correct copy of “Petition to Make Special Because of Actual Infringement,” filed with the PTO in the Application of Fu-Keun Lin, Serial No. 675,298, Bates numbered AM-ITC 00447885-AM-ITC 00447886, dated April 23, 1986.

I declare, under penalty of perjury, under the laws of the United States, that the foregoing is true and correct and that this Declaration was completed at Palo Alto, California this 10<sup>th</sup> day of April 2007.

/s/ William G. Gaede, III  
William G. Gaede, III

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the Electronic Case Filing (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/ Michael R. Gottfried*

Michael R. Gottfried