

**IN THE UNITED STATES DISTRICT COURT  
FOR THE 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. 05-12237 WGY

U.S. District Judge Young

**DECLARATION OF HOWARD S. SUH IN SUPPORT OF DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT THAT CLAIM 10 OF THE '933  
PATENT IS INVALID ON THE GROUNDS OF FAILURE TO COMPLY  
WITH CLAIM DIFFERENTIATION UNDER § 112, ¶ 4**

I, Howard S. Suh, hereby declare under penalty of perjury that:

1. I am an attorney admitted to the Bar of the State of New York and am an associate in the law firm of Kaye Scholer LLP, counsel for Defendants in the above captioned case.
2. I make this declaration in support of Roche's Motion for Summary Judgment That Claim 10 of the '933 Patent Is Invalid On The Grounds Of Failure To Comply With Claim Differentiation Under § 112, ¶ 4 and the accompanying Rule 56.1 Statement Of Undisputed Material Facts.
3. Exhibit A is a true and correct copy of U.S. Patent No. 5,547,933.
4. Exhibit B is a true and correct copy of an excerpt from the April 17, 2007 Markman Hearing.

Dated: June 11, 2007

Respectfully submitted,

/s/ Howard S. Suh  
Howard S. Suh

**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/ Keith E. Toms  
Keith E. Toms