

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.: 05-12237 WGY
	)	
	)	
F. HOFFMANN-LA ROCHE	)	
LTD., a Swiss Company, ROCHE	)	
DIAGNOSTICS GmbH, a German	)	
Company and HOFFMANN-LA ROCHE	)	
INC., a New Jersey Corporation,	)	
	)	
Defendants.	)	
_____	)	

**AMGEN INC.’S MOTION FOR SUMMARY JUDGMENT  
OF NO OBVIOUSNESS-TYPE DOUBLE PATENTING**

For the reasons set forth in its supporting Memorandum, filed herewith, Plaintiff Amgen Inc. (“Amgen”) respectfully submits this motion for summary judgment of no obviousness-type double patenting. In particular, Amgen respectfully requests that the Court grant summary judgment in Amgen’s favor that:

1. The ‘933, ‘349, and ‘422 patent claims are exempt from obviousness-type double patenting over the ‘008 patent claims, under 35 U.S.C. § 121;
2. The “two-way” double patenting test applies for purposes of determining whether the claims-in-suit are invalid for obviousness-type double patenting over the Lai/Strickland ‘016 patent claims; and
3. The claims-in-suit are not invalid for obviousness-type double patenting over the Lai/Strickland ‘016 patent claims.

***Request for Oral Argument***

Amgen respectfully requests that the Court hear oral argument regarding this motion.

Respectfully Submitted,  
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By its attorneys,

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Dated: June 14, 2007

**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 no agreement was reached.

\_\_\_\_\_/s/ Michael R. Gottfried  
Michael R. Gottfried

**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 the above date.

\_\_\_\_\_/s/ Michael R. Gottfried  
Michael R. Gottfried