

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

DECLARATION OF MARIO MOORE IN SUPPORT OF AMGEN INC.'S
MEMORANDUM TO ITS MOTION FOR SUMMARY JUDGMENT OF
NO OBVIOUSNESS-TYPE DOUBLE PATENTING

I, Mario Moore, declare as follows:

- 1. I am an attorney at the law firm of Day Casebeer Madrid & Batchelder LLP, counsel for plaintiff Amgen Inc. I am admitted to practice law before this Court (pro hac vice) and all of the Courts of the State of California.
2. I make this declaration of my own personal knowledge. If called to testify as to the truth of the matters stated herein, I could and would testify competently.
3. Attached hereto as Exhibit A is a demonstrative that provides a visual overview of the prosecution history of Dr. Lin's patents-in-suit.
4. Attached hereto as Exhibit B is a true and correct copy of U.S. Patent No. 4,703,008.
5. Attached hereto as Exhibit C is a true and correct copy of U.S. Patent No. 5,547,933.

6. Attached hereto as Exhibit D is a true and correct copy of U.S. Patent No. 5,756,349.

7. Attached hereto as Exhibit E is a true and correct copy of U.S. Patent No. 5,955,422.

8. Attached hereto as Exhibit F is a true and correct copy of U.S. Patent No. 5,441,868.

9. Attached hereto as Exhibit G is a true and correct copy of U.S. Patent No. 5,618,698.

10. Attached hereto as Exhibit H is a true and correct copy of the prosecution history of U.S. Patent Application No. 06/675,298. For ease of reference, Exhibit H is divided into subparts H-1 to H-32, with each subpart corresponding to the '298 prosecution history paper bearing the same number (e.g., H-1 = '298 File History, Paper 1).

11. Attached hereto as Exhibit I is a true and correct copy of U.S. Patent Application No. 07/113,178.

12. Attached hereto as Exhibit J is a true and correct copy of U.S. Patent Application No. 07/113,179.

13. Attached hereto as Exhibit K is a true and correct copy of U.S. Patent Application No. 06/747,119.

14. Attached hereto as Exhibit L is a true and correct copy of U.S. Patent No. 4,667,016.

15. Attached hereto as Exhibit M is a true and correct copy of the following documents from the prosecution history of U.S. Patent Application No. 07/113,178:

- M-1: Office Action, mailed June 20, 1989.
- M-2: Amendment and Remarks, filed July 12, 1989.
- M-3: Office Action, mailed September 18, 1989.
- M-4: Amendment Under Rule 116, mailed January 11, 1990.
- M-5: Office Action, mailed December 29, 1993.

16. Attached hereto as Exhibit N is a true and correct copy of the following excerpts from the prosecution history of U.S. Patent Application No. 07/113,179:

- N-1: Office Action, mailed September 1, 1993.
- N-2: Applicant's Amendment and Response Under 37 C.F.R. §§ 1.115 and 1.111, filed January 31, 1994.
- N-3: Office Action, mailed February 15, 1994.

17. Attached hereto as Exhibit O is a true and correct copy of Amgen Inc's Response to Roche's Interrogatory No. 40, served April 2, 2007.

18. Attached hereto as Exhibit P is a true and correct copy of the Manual of Patent Examining Procedure, Sections 201.06 and 201.06(a):

- P-1: 5th Edition, Revision 11, April 1989.
- P-2: 8th Edition, Revision 5, August 2006.

19. Attached hereto as Exhibit Q is a true and correct copy of the April 6, 2007 Expert Report of Dr. Edward Everett Harlow, Jr.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Signed this 14th day of June, 2007.

By: /s/ Mario Moore
 Mario Moore