

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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

CIVIL ACTION No.: 05-CV-12237WGY

**DECLARATION OF HOWARD S. SUH IN SUPPORT OF  
ROCHE’S MOTION FOR SUMMARY JUDGMENT THAT THE  
ASSERTED CLAIMS OF THE ‘933 PATENT ARE INVALID  
FOR INDEFINITENESS AND LACK OF WRITTEN DESCRIPTION**

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F. HOFFMANN-LA ROCHE LTD,  
ROCHE DIAGNOSTICS GmbH, and  
HOFFMANN-LA ROCHE INC.*

Dated: June 14, 2007

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 Claims 3, 7-9, 11, 12 and 14 of the '933 Patent are Invalid for Indefiniteness and Lack of Written Description.
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 U.S. Patent No. 5,621,080.
5. Exhibit C is a true and correct copy of expert report of Ajit Varki (5/11/2007).
6. Exhibit D is a true and correct copy of expert report of Ajit Varki (6/1/2007).
7. Exhibit E is a true and correct copy of 6/7/95 Second Preliminary Amendment, Ser. No. 08/487,774.
8. Exhibit F is a true and correct copy of 8/16/94 Office Action (paper 38).
9. Exhibit G is a true and correct copy of 3/31/95 08/100,197 Office Action (paper 26).
10. Exhibit H is a true and correct copy of expert report of Don Catlin (5/11/2007).
11. Exhibit I is a true and correct copy of expert report of Harvey Lodish (4/6/2007).
12. Exhibit J is a true and correct copy of the deposition transcript of Eugene Goldwasser (5/31/2007).
13. Exhibit K is a true and correct copy of Plaintiff's Supplemental Response to Defendants' First Set of Interrogatories. (Nos. 1-12).

Dated: June 14, 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/ Nicole A. Rizzo

Nicole A. Rizzo

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