

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN INC.,
Plaintiff,
vs.
F. HOFFMANN-LA ROCHE LTD,
ROCHE DIAGNOSTICS GmbH, and
HOFFMANN-LA ROCHE INC.
Defendants.
CIVIL ACTION No.: 05-cv-12237WGY

SUPPLEMENTAL DECLARATION OF HOWARD SUH, ESQ. IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS FOR LACK OF SUBJECT MATTER
JURISDICTION AND FAILURE TO STATE A CLAIM FOR WHICH
RELIEF MAY BE GRANTED

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 counsel to
the law firm of Kaye Scholer LLP, counsel for Defendants in the above captioned case.

2. I make this supplemental declaration in support of Defendants' Motion To Dismiss
For Lack of Subject Matter Jurisdiction and Failure to State a Claim for Which Relief May Be
Granted ("Motion To Dismiss"), dated April 11, 2006.

3. In Defendants' Memorandum in Support of their Motion To Dismiss, Defendants'
informed the Court that their Biologics License Application ("BLA") for their product, CERA
(short for Continuous Erythropoiesis Receptor Activator), for treatment of anemia associated

with chronic kidney disease, was expected to be filed with the U.S. Food and Drug Administration (“FDA”) this month. *See e.g.* Defendants’ Memorandum, Docket No. 45, at 6.

4. By this declaration, Defendants inform the Court that they have submitted their BLA to the FDA on April 19, 2006, and have announced this submission today by press release, dated April 20, 2006. A true and correct copy of this press release is attached hereto as Exhibit A.

Dated: April 20, 2006

/s/ Howard 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/ Julia Huston _____

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