

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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

**DECLARATION OF RENEE DUBORD BROWN  
IN SUPPORT OF AMGEN INC.'S MOTION FOR SUMMARY JUDGMENT THAT DR.  
LIN'S ASSERTED CLAIMS ARE DEFINITE, ADEQUATELY DESCRIBED AND  
ENABLED**

I, Renee DuBord Brown, declare as follows:

1. I am a partner 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 1 is a true and correct copy of selected pages of the April 17, 2007 *Markman* Hearing Transcript in *Amgen Inc. v. F. Hoffmann-La Roche, Ltd., et al.*, No. 05cv12237-WGY.

4. Attached hereto as Exhibit 2 is a true and correct copy of U.S. Patent No. 5,441,868.

5. Attached hereto as Exhibit 3 is a true and correct copy of U.S. Patent No. 5,547,933.

6. Attached hereto as Exhibit 4 is a true and correct copy of U.S. Patent No. 5,618,698.

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

8. Attached hereto as Exhibit 6 is a true and correct copy of U.S. Patent No. 5,955,422.

9. Attached hereto as Exhibit 7 is a true and correct copy of U.S. Patent No. 4,353,982.

10. Attached hereto as Exhibit 8 is a true and correct copy of W. Fried et al., "Studies on Erythropoiesis: III. Factors Controlling Erythropoietin Production," *Proc. Soc. Exp. Biol. Med.* 94:237-41 (1957).

11. Attached hereto as Exhibit 9 is a true and correct copy of J.C. Egrie et al., "Development of Radioimmunoassays for Human Erythropoietin Using Recombinant

Erythropoietin as Tracer and Immunogen,” *J. Immunol. Methods*, 99:235-241 (1987), bearing production number AM-ITC 00580101-0107.

12. Attached hereto as Exhibit 10 is a true and correct copy of C. Zaroulis et al., “Serum Concentrations of Erythropoietin Measured by Radioummunoassay in Hematologic Disorders and Chronic Renal Failure,” *Am. J. Hemtol.*, 11:85-92 (1981), bearing production number AM-ITC 00983265-3274.

13. Attached hereto as Exhibit 11 is a true and correct copy of selected pages of the May 24, 2007 Shouval Deposition Transcript in *Amgen Inc. v. F. Hoffmann-La Roche, Ltd., et al.*, No. 05cv12237-WGY.

14. Attached hereto as Exhibit 12 is a true and correct copy of J. Garcia et al., “Radioimmunoassay of Erythropoietin,” *Blood Cells*, 5:405-419 (1979), bearing production number AM-ITC 00883165-3184.

15. Attached hereto as Exhibit 13 is a true and correct copy of A. Rege et al., “A Radioimmunoassay for Erythropoietin: Serum Levels in Normal Human Subjects and Patients with Hemopoietic Disorders,” *J. Lab. Clin. Med.*, 100(6):829-843 (1982).

16. Attached hereto as Exhibit 14 is a true and correct copy of J. Sherwood & E. Goldwasser, “A Radioimmunoassay for Erythropoietin,” *Blood*, 54(4): 885-893 (1979), bearing production number AM-ITC 00213101-3109.

17. Attached hereto as Exhibit 15 is a true and correct copy of selected pages of the June 8, 2007 Gaylis Deposition Transcript in *Amgen Inc. v. F. Hoffmann-La Roche, Ltd., et al.*, No. 05cv12237-WGY.

18. Attached hereto as Exhibit 16 is a true and correct copy of selected pages of the May 17, 2007 McLawhon Deposition Transcript in *Amgen Inc. v. F. Hoffmann-La Roche, Ltd., et al.*, No. 05cv12237-WGY.

19. Attached hereto as Exhibit 17 is a true and correct copy of selected pages, redacted at Roche's request, of Defendants' Third Supplemental Responses and Objections to Plaintiff Amgen, Inc.'s First Set of Interrogatories (Nos. 1-15), served on April 2, 2007.

20. Attached hereto as Exhibit 18 is a true and correct copy of selected pages, redacted at Roche's request, of the Expert Report of Dr. Robert Langer, served on April 6, 2007.

21. Attached hereto as Exhibit 19 is a true and correct copy of the 9/28/99 Declaration of Jeffrey K. Browne, Ph.D., bearing production number AM-ITC 00974818-4826.

22. Attached hereto as Exhibit 20 is a true and correct copy of J. Garcia et al., "Radioimmunoassay of Erythropoietin: Circulating Levels in Normal and Polycythemic Human Beings," *J. Lab. Clin. Med.* 99:624-635 (1982), bearing production number AM-ITC 00469420-9431.

23. Attached hereto as Exhibit 21 is a true and correct copy of P. Koeffler et al., "Erythropoietin Radioimmunoassay in Evaluating Patients with Polycythemia," *Annals of Internal Med.*, 94(1):44-47 (1981), bearing production number AM-ITC 00213063-3066.

24. Attached hereto as Exhibit 22 is a true and correct copy of selected pages of the May 31, 2007 Goldwasser Deposition Transcript in *Amgen Inc. v. F. Hoffmann-La Roche, Ltd., et al.*, No. 05cv12237-WGY.

25. Attached hereto as Exhibit 23 is a true and correct copy of selected pages of the Feb. 14, 2007 Goldwasser Deposition Transcript in *Amgen Inc. v. F. Hoffmann-La Roche, Ltd., et al.*, No. 05cv12237-WGY.

26. Attached hereto as Exhibit 24 is a true and correct copy of selected pages of U.S. Appln. 100,197 File History, 4/28/99 Amendment (Paper 33), bearing production number AM-ITC 00899470-9476.

27. Attached hereto as Exhibit 25 is a true and correct copy of selected pages from the

Prosecution History of U.S. Patent No. 5,547,933, including: 6/2/88 Office Action, bearing production number AM-ITC 00941090-1099; 11/30/88 Strickland Declaration, bearing production number AM-ITC 00941120-1135; 6/5/89 Amendment Under Rule 116, bearing production number AM-ITC 00941165-1172; 12/20/95 Second Preliminary Amendment and Remarks, bearing production number AM-ITC 00941544-1551.

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

Signed this 20<sup>th</sup> day of June, 2007.

By: /s/ Renee DuBord Brown  
Renee DuBord Brown

**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.

*/s/ Michael R. Gottfried*  
Michael R. Gottfried