

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,)	
)	
Plaintiff,)	
)	Civil Action No.: 05-12237 WGY
v.)	
)	
)	
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 RESPONSE TO ROCHE’S STATEMENT OF MATERIAL FACTS IN
SUPPORT OF DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT THAT CLAIM
10 OF THE ‘933 PATENT IS INVALID FOR FAILURE TO COMPLY WITH CLAIM
DIFFERENTIATION UNDER § 112, ¶ 4**

Pursuant to LR, D. MASS. 56.1, plaintiff Amgen Inc. (“Amgen”) hereby responds to defendants F. Hoffman-La Roche Ltd, Roche Diagnostics GmbH, and Hoffman-La Roche, Inc.’s (“Roche”) Statement of Material Facts Supporting Motion for Summary Judgment under Local Rule 56.1 (“Roche’s Facts”).

1. Amgen does not contest the statement of fact contained in Roche’s Facts paragraph 1, except to correct a typographical error noted in a 3/24/98 PTO Certificate of Correction, in the language of Claim 9 of the ‘933 patent, which properly reads:

“A pharmaceutical composition comprising an effective amount of a glycoprotein product effective for erythropoietin therapy according to claim 1, 2, 3, 4, 5 or 6 and a pharmaceutically acceptable diluent, adjuvant or carrier.”

2. Amgen does not contest the statement of fact contained in Roche’s Facts paragraph 2.

3. Amgen does not contest the statement of fact contained in Roche’s Facts paragraph 3, except to correct a typographical error in the language of Claim 10 of the ‘933 patent, which properly reads:

“A method for providing erythropoietin therapy to a mammal comprising administering an effective amount of a pharmaceutical composition of claim 9.”

Dated: June 27, 2007

Respectfully submitted,

AMGEN INC.,
By its attorneys,

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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/ Patricia R. Rich

Patricia R. Rich