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UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

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

DECLARATION OF ADAM ARTHUR BIER IN SUPPORT OF AMGEN INC.'S OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT THAT THE ASSERTED CLAIMS OF THE '933 PATENT ARE INVALID FOR INDEFINITENESS AND LACK OF WRITTEN DESCRIPTION

- I, Adam Arthur Bier, 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 States of California and New York.
- 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 US Patent No. 5,362,646.
- 4. Attached hereto as Exhibit 2 is a true and correct copy of selected pages of the Feb. 26, 2007 Goldwasser Deposition Transcript in *Amgen, Inc. v. F. Hoffmann-LaRoche, Ltd.*, et al., CA No. 05cv12237-WGY.

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5. Attached hereto as Exhibit 3 is a true and correct copy of C. Kung & E. Goldwasser, "A Probable Conformational Difference Between Recombinant and Urinary Erythropoietins," *Proteins: Structure, Function and Genetics*, 28(1):94-98 (1997), bearing production numbers AM-ITC 00991084-1088.

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

Signed this 29th day of June, 2007.

By:	/s/ Adam Arthur Bier
•	Adam Arthur Bier

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 on the above date.

> /s/ Patricia R. Rich Patricia R. Rich