

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
AMGEN INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	CIVIL ACTION No.: 05-CV-12237WGY
F. HOFFMANN-LA ROCHE LTD,	)	
ROCHE DIAGNOSTICS GMBH,	)	
and HOFFMANN-LA ROCHE INC.,	)	
	)	
Defendants.	)	
_____	)	

**DECLARATION OF NICOLE A. RIZZO IN SUPPORT OF DEFENDANTS’  
MOTION FOR SUMMARY JUDGMENT THAT AMGEN IS ESTOPPED  
FROM ASSERTING INFRINGEMENT UNDER THE DOCTRINE OF  
EQUIVALENTS OF THE ASSERTED CLAIMS OF THE ‘698 AND ‘868 PATENTS**

I, Nicole A. Rizzo, hereby declare under penalty of perjury that:

1. I am an attorney admitted to the Bars of the State of Massachusetts and the United States District Court for the District of Massachusetts and am an associate at Bromberg & Sustain LLP, counsel for Defendants in the above-captioned case.

2. I make this Declaration in Support of Defendants’ Motion For Summary Judgment That Amgen Is Estopped From Asserting Infringement Under The Doctrine Of Equivalents Of The Asserted Claims Of The ‘698 And ‘868 Patents, dated July 3, 2007.

3. Exhibit 1, attached hereto, is a true and correct copy of U.S. Patent No. 5,441,868.

4. Exhibit 2, attached hereto, is a true and correct copy of U.S. Patent No. 5,618,698.

5. Exhibit 3, attached hereto, is a true and correct copy of ‘008 patent file history, Paper 13, 2/5/87 Office Action.

6. Exhibit 4, attached hereto, is a true and correct copy of U.S. Patent Application Serial No. 675,298 at 99-100.

7. Exhibit 5, attached hereto, is a true and correct copy of '008 patent file history, Paper 15, Amendment and Reply at 1-2, 4-5.

8. Exhibit 6, attached hereto, is a true and correct copy of '008 patent file history, Paper 17, 6/18/87 Office Action at 3.

9. Exhibit 7, attached hereto, is a true and correct copy of Markman Hearing Transcript, 4/17/07 at 27:8-10, 34:7-10.

10. Exhibit 8, attached hereto, is a true and correct copy of '868 patent file history, Paper 7, 10/23/87 Preliminary Amendment at 5-7.

11. Exhibit 9, attached hereto, is a true and correct copy of '868 patent file history, Paper 8, 5/24/88, Second Preliminary Amendment at 3-4.

12. Exhibit 10, attached hereto, is a true and correct copy of '868 patent file history, Paper 29, 9/1/93 at 5-6 and 9-10.

13. Exhibit 11, attached hereto, is a true and correct copy of '698 patent file history, Paper 7, 12/11/96 Interview Summary.

14. Exhibit 12, attached hereto, is a true and correct copy of '080 patent file history, Paper 6, 12/20/96 Third Preliminary Amendment.

15. Exhibit 13, attached hereto, is a true and correct copy of '080 patent file history, Paper 4, 12/11/96 Interview Summary.

16. Exhibit 14, attached hereto, is a true and correct copy of *Amgen v. HMR/TKT* - Amgen's Post-Hearing Memorandum in Support of Its F.R.C.P. 52(C) Motion That '080 Claims 2-4 Are Infringed Under the Doctrine of Equivalentents at 5.

17. Exhibit 15, attached hereto, is a true and correct copy of Plaintiff's Supplemental Response to Defendant's First Set of Interrogatories (Nos. 1-12) at 3-4.

Signed under the penalties of perjury pursuant to 28 U.S.C. Sec. 1746 this 3rd day of July, 2007.

/s/ Nicole A. Rizzo  
Nicole A. Rizzo

**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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