

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

**REPLY DECLARATION OF HOWARD S. SUH IN FURTHER 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 reply declaration in further support of Defendants’ Motion To Dismiss For Lack of Subject Matter Jurisdiction and Failure to State a Claim for Which Relief May Be Granted, dated April 11, 2006.

3. Reply Exhibit 1 is a true and correct copy of Amgen’s Complaint of Amgen Inc. under Section 337 of the Tariff Act of 1930, As Amended, dated April 11, 2006.

4. Reply Exhibit 2 is a true and correct copy of “Answers to Frequently Asked Question,” Section 337 Investigations, U.S. International Trade Commission, Publication NO. 3708, July 2004.

5. Reply Exhibit 3 is a true and correct copy of excerpts of Amgen's Form 10-Q, filed November 9, 2005.

6. Reply Exhibit 4 is a true and correct copy of excerpts of Amgen's Form 8-K, filed April 24, 2006.

7. Reply Exhibit 5 is a true and correct copy of excerpts of Amgen's 2005 Form 10-K.

8. Reply Exhibit 6 is a true and correct copy of "THE-PINK-SHEET: Roche Pegasys Has \$291 WAC; Launch Includes 12 Weeks of Free Samples," dated October 21, 2002.

9. Reply Exhibit 7 is a true and correct copy of an excerpt of "New Drug Approvals in 2001," American Pharmaceutical Companies, dated January 2002.

10. Reply Exhibit 8 is a true and correct copy of "Frequently Asked Questions," U.S. Food and Drug Administration, Center for Biologics Evaluation and Research.

11. Reply Exhibit 9 is a true and correct copy of "Approval Times," U.S. Food and Drug Administration, Center for Biologics Evaluation and Research.

12. Reply Exhibit 10 is a true and correct copy of Roche - Investor Update, "Roche receives Complete Response Letter from FDA for PEGASYS (peginterferon alfa-2a)," dated April 27, 2001.

13. Reply Exhibit 11 is a true and correct copy of Amgen's Amended Complaint in this action, dated April 25, 2006.

14. Reply Exhibit 12 is a true and correct copy of the publicly available Complete Response Letter, dated February 16, 2001, from the FDA to Amgen, as located on <http://www.fda.gov/cder/biologics/review/darbamg091701r5.pdf>.

15. Reply Exhibit 13 is a true and correct copy of Pollack, A., "Rivals Laying Siege to Amgen's Near Monopoly in Anemia Drugs," The New York Times, December 23, 2005.

Dated: May 1, 2006

/s/ Howard S. 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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