

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN INC.,)
)
 Plaintiff,)
)
 v.)
)
 F. HOFFMANN-LA ROCHE LTD;)
 ROCHE DIAGNOSTICS GmbH; and)
 HOFFMANN-LA ROCHE INC.)
)
 Defendants.)

CIVIL ACTION No.: 05-CV-12237WGY
ORAL ARGUMENT SET FOR
JULY 17, 2007

**DECLARATION OF KEITH E. TOMS IN SUPPORT OF DEFENDANTS' REPLY
MEMORANDUM IN FURTHER SUPPORT OF DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT THAT THE ASSERTED CLAIMS OF THE '933 PATENT
ARE INVALID FOR INDEFINITENESS AND LACK OF WRITTEN DESCRIPTION**

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Dated: Boston, Massachusetts
July 9, 2007

*Counsel for Defendants
F. Hoffmann-La Roche Ltd,
Roche Diagnostics GmbH, and
Hoffmann-La Roche Inc.*

I, Keith E. Toms, 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 & Sunstein LLP, counsel for Defendants in the above-captioned case.
2. I make this Declaration in Support of Defendants' Reply Memorandum in Further Support of Defendants' Motion for Summary Judgment That the Asserted Claims of the '933 Patent are Invalid for Indefiniteness and Lack of Written Description, dated July 9, 2007.
3. Exhibit 1, attached hereto, is a true and correct copy of Serial No. 487,774, Paper 50, 12/20/95 Second Preliminary Amendment and Remarks.
4. Exhibit 2, attached hereto, is a true and correct copy of Serial No 202,874, Paper 43, 05/15/95 Office Action.

Executed this 9th day of July 2007 at Boston, Massachusetts.

/s/ Keith E. Toms

Keith E. Toms
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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 (NEF) and paper copies will be sent to those indicated as non registered participants on the above date.

/s/ Kimberly J. Seluga
Kimberly J. Seluga

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