

**IN THE UNITED STATES DISTRICT COURT
FOR THE 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 12237 WGY

U.S. District Judge William G. Young

ORAL ARGUMENT REQUESTED

**DECLARATION OF KRISTA M. RYCROFT IN SUPPORT OF ROCHE’S REPLY TO
AMGEN INC.’S OPPOSITION TO ROCHE’S MOTION FOR SUMMARY JUDGMENT
THAT CLAIM 1 OF THE ‘422 PATENT IS INVALID UNDER 35 U.S.C. § 112**

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F. HOFFMANN-LA ROCHE, LTD,
ROCHE DIAGNOSTICS GMBH, and
HOFFMANN-LA ROCHE INC.

Dated: July 9, 2007

I, Krista M. Rycroft, hereby declare under penalty of perjury that:

1. I am an attorney admitted to the Bar of the State of New York and am an associate in the law firm of Kaye Scholer LLP, counsel for Defendants in the above-captioned case.

2. I make this declaration in support of Defendants' Reply to Amgen Inc.'s Opposition to Roche's Motion for Summary Judgment that Claim 1 of the '422 Patent is Invalid under 35 U.S.C. § 112, dated July 9, 2007.

3. Exhibit 1 is intentionally left blank.

4. Exhibit 2, attached hereto, is a true and correct copy of excerpts from the July 3, 2007 Deposition of Harvey F. Lodish, Ph.D. in *Amgen Inc. v. F. Hoffman-La Roche, Ltd et al.*, Civil Action No.: 05 Civ. 12237 WGY (D. Mass).

5. Exhibit 3, attached hereto, is a true and correct copy of excerpts from the June 22, 2007 Deposition of J. Donald Capra, M.D. in *Amgen Inc. v. F. Hoffman-La Roche, Ltd et al.*, Civil Action No.: 05 Civ. 12237 WGY (D. Mass).

6. Exhibit 4, attached hereto, is a true and correct copy of Browne et al., Erythropoietin: Gene Cloning, Protein Structure, and Biological Properties, Cold Spring Harbor Symp. Quant. Biol. 51:693-702 (1986) (AM-ITC 00461052-61).

7. Exhibit 5, attached hereto, is a true and correct copy of excerpts from the April 17, 2007 Markman Hearing in *Amgen Inc. v. F. Hoffman-La Roche, Ltd et al.*, Civil Action No.: 05 Civ. 12237 WGY (D. Mass).

Signed under the penalties of perjury pursuant to 28 U.S.C. Sec. 1746 this 9th day of July, 2007.

/s/ Krista M. Rycroft
Krista M. Rycroft

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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