

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

|                                 |   |                                |
|---------------------------------|---|--------------------------------|
| AMGEN INC.,                     | ) |                                |
|                                 | ) |                                |
|                                 | ) |                                |
| Plaintiff,                      | ) |                                |
|                                 | ) | Civil Action No.: 05-12237 WGY |
| 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 CRAIG H. CASEBEER IN SUPPORT OF  
AMGEN INC.'S REPLY TO ROCHE'S OPPOSITION TO MOTION FOR SUMMARY  
JUDGMENT OF NO INEQUITABLE CONDUCT**

I, Craig H. Casebeer, 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 State of California.

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 *Young v. Lumenis*, 2007 WL 1827845 (Fed. Cir. June 27, 2007).

4. Attached hereto as Exhibit 2 is a true and correct copy of select pages from Item 5 in the Notice of Claimed Investigational Exemption for Recombinant Human Erythropoietin (r-HuEPO), bearing bates AM-ITC 00988329, AM-ITC 00988840-841.

5. Attached hereto as Exhibit 3 is a true and correct copy of select pages of Joan Egrie's Deposition taken on April 15, 1991, in Record or Party Lin (*Fritsch v. Lin* Interference No. 102,097), bearing bates AM-ITC 00356638, AM-ITC 00356812-81

6. Attached hereto as Exhibit 4 is a true and correct copy of select pages from Joan Egrie's Lab Notebook No. 633, bearing bates AM-ITC 00336897 – 907.

7. Attached hereto as Exhibit 5 is a true and correct copy of the *Hoeschst Marion Roussel v. Kirin-Amgen Inc.*, [2002] EWHC 471 (Patents), bearing bates AM-ITC 01066841 - 925.

8. Attached hereto as Exhibit 6 is a true and correct copy of the index to Amgen's r-HuEPO Product License Application, submitted in *Fritsch v. Lin*, Interference Nos. 102,096, 102,097 and 102,334, bearing bates AM-ITC 00950070 – 080.

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

Signed this 12<sup>th</sup> day of July, 2007.

By: /s/ Craig H. Casebeer  
Craig H. Casebeer

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 on-registered participants.

*/s/ Michael R. Gottfried*  
Michael R. Gottfried