

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,	)	
	)	
	)	
Plaintiff,	)	
	)	Civil Action No.: 05-12237 WGY
v.	)	
	)	
	)	
F. HOFFMANN-LA ROCHE	)	
LTD., a Swiss Company, ROCHE	)	
DIAGNOSTICS GmbH, a German	)	
Company and HOFFMANN-LA ROCHE	)	
INC., a New Jersey Corporation,	)	
	)	
Defendants.	)	
_____	)	

**DECLARATION OF KATIE J.L. SCOTT IN SUPPORT  
OF AMGEN INC.'S OPPOSITION TO 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, Katie J.L. Scott, declare as follows:

1. I am an attorney admitted to practice law before all the Courts of the State of California and before this Court (*pro hac vice*). I am an attorney of the law firm of Day Casebeer Madrid & Batchelder LLP, counsel for Plaintiff, Amgen, Inc. in this matter.
2. I make this declaration of my own personal knowledge. If called to testify with respect to the truth of the matters stated herein, I could and would do so competently.
3. Attached hereto as Exhibit 1 is a true and correct copy of U.S. Patent No. 5,618,698 File History, Paper 4, Preliminary Amendment, dated June 6, 1995, bearing production numbers AM-ITC 00942338 – AM-ITC 00942341.
4. Attached hereto as Exhibit 2 is a true and correct copy of U.S. Patent No. 5,618,698 File History, Paper 9, Second Preliminary Amendment and Terminal Disclaimer Pursuant to 37 C.F.R. §1.321, dated December 20, 1996, bearing production numbers AM-ITC 00942382 – AM-ITC 00942395.
5. Attached hereto as Exhibit 3 is a true and correct copy of U.S. Patent No. 5,441,868 File History, Paper 24, Amendment Accompanying Contingent Motion, dated January 20, 1990, bearing production numbers AM-ITC 00953533 – AM-ITC 00953535.
6. Attached hereto as Exhibit 4 is a true and correct copy of U.S. Patent No. 5,441,868 File History, Paper 33, Applicant's Amendment and Response Under 37 CFR §§1.115 and 1.111, dated January 3, 1994, bearing production numbers AM-ITC 00953636 – AM-ITC 00953648.
7. Attached hereto as Exhibit 5 is a true and correct copy of U.S. Patent No. 5,441,868 File History, Paper 16, Letter from Examiner, dated December 2, 1988, bearing

production numbers AM-ITC 00953282 – AM-ITC 00953283; AM-ITC 00455214; AM-ITC 00953783 - AM-ITC 00953785.

8. Attached hereto as Exhibit 6 is a true and correct copy of U.S. Patent No. 4,703,008 File History, Paper 17, Office Action, dated June 18, 1987, bearing production numbers AM-ITC 00952689; AM-ITC 00448325; AM-ITC 00952684 - AM-ITC 00952688; AM-ITC 00448331; AM-ITC 00952693; AM-ITC 00952691 - AM-ITC 00952692.

9. Attached hereto as Exhibit 7 is a true and correct copy of U.S. Patent No. 4,703,008 File History, Paper 12, Applicant's Amendment and Reply Under 35 U.S.C. §§1.111 and 1.115, dated October 2, 1986, bearing production numbers AM-ITC 00952530 – AM-ITC 00952568.

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

Signed this 13<sup>th</sup> day of July, 2007

*/s/ Katie J. L. Scott*

\_\_\_\_\_  
Katie J.L. Scott

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/ Patricia R. Rich  
Patricia R. Rich