

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

**DEFENDANTS’ MOTION FOR LEAVE TO FILE SUR-REPLY IN SUPPORT OF ITS
OPPOSITION TO AMGEN’S MOTION FOR SUMMARY JUDGMENT OF
INFRINGEMENT OF ‘422 CLAIM 1, ‘933 CLAIM 3, AND ‘698 CLAIM 6**

Pursuant to Local Rule 7.1(B)(3), Defendants F. Hoffmann-La Roche LTD, Roche Diagnostics GmbH and Hoffmann-La Roche Inc. (“Roche”) seek leave to file the attached sur-reply in support of their Opposition to Amgen’s Motion for Summary Judgment of Infringement of ‘422 Claim 1, ‘933 Claim 3, and ‘698 Claim 6 (Docket No. 588).

As grounds for this motion, Roche states that Amgen’s reply distorts the issues and raises new points that Roche has not yet had an opportunity to address. Furthermore, Amgen had the benefit of the Court's July 3, 2007, Memorandum and Order on claim construction in styling its reply. Roche believes that the attached sur-reply will assist the Court in ruling on the pending motion because it clarifies the issues and responds to the new points raised in Amgen's reply.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1

I certify that counsel for the parties have conferred in an attempt to resolve or narrow the issues presented by this motion and that no agreement could be reached.

Dated: July 13, 2007
Boston, Massachusetts

Respectfully submitted,

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

By their Attorneys

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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/ Keith E. Toms