

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-12237 WGY
)	
F. HOFFMANN-LA ROCHE, Ltd, a)	U.S. District Judge Young
Swiss Company, ROCHE)	
DIAGNOSTICS GmbH, a German)	
Company and HOFFMANN-LA ROCHE)	
INC., a New Jersey Corporation,)	
)	
Defendant.)	
_____)	

**DECLARATION OF THOMAS F. FLEMING, ESQ. IN SUPPORT OF
ROCHE’S REPLY IN SUPPORT OF ITS MOTION PURSUANT TO FED. R. CIV. P.
56(f) FOR RELIEF FROM AMGEN INC.’S MOTION FOR
SUMMARY JUDGMENT OF NO INEQUITABLE CONDUCT**

I, Thomas F. Fleming, declare under penalty of perjury as follows:

1. I am a partner at the law firm of Kaye Scholer LLP, attorneys for Defendants F. Hoffmann-La Roche, Ltd, Roche Diagnostics GmbH and Hoffmann-La Roche Inc. (collectively “Roche”).

2. I make this declaration in support of Roche’s Reply in Support of Its Motion Pursuant to Fed. R. Civ. P. 56(f) for relief from Amgen Inc.’s Motion For Summary Judgment of No Inequitable Conduct.

3. Attached hereto as Exhibit 1 is a true and correct copy of portions of Defendants’ Responses and Objections to Plaintiff Amgen Inc.’s Third Set of Interrogatories to Defendants (No. 26), submitted on March 14, 2007.

4. Attached hereto as Exhibit 2 is a true and correct copy of portions of Defendants' Supplemental Responses and Objections to Plaintiff Amgen Inc.'s Third Set of Interrogatories to Defendants (No. 26), submitted on April 2, 2007.¹

5. Attached hereto as Exhibit 3 is a true and correct copy of portions of the May 11, 2007 Expert Report of Stephen G. Kunin.

6. Attached hereto as Exhibit 4 is a true and correct copy of portions of Plaintiff Amgen Inc.'s Responses to Defendant's Third Set of Interrogatories to Plaintiff (Nos. 19-40), submitted on April 2, 2007.

Dated: July 16, 2007
New York, New York

/s/ Thomas F. Fleming
Thomas F. Fleming

¹ The entirety of Defendants' Supplemental Responses and Objections to Plaintiff Amgen Inc.'s Third Set of Interrogatories to Defendants (No. 26) was submitted to the Court as Exhibit 226 to the Declaration of Krista M. Rycroft in Support of Roche's Opposition to Amgen Inc.'s Motion for Summary Judgment of No Inequitable Conduct (Docket No. 635).

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

Keith E. Toms

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