

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	CIVIL ACTION No.: 05-CV-12237WGY
F. HOFFMANN-LA ROCHE LTD)	
ROCHE DIAGNOSTICS GmbH)	
and HOFFMANN-LA ROCHE INC.)	
)	
Defendants.)	
_____)	

**DECLARATION OF KRISTA M. RYCROFT IN SUPPORT OF ROCHE’S
MOTION *IN LIMINE* TO PRECLUDE AMGEN INC. FROM
CONTRADICTING ARGUMENTS MADE IN
PRIOR ADMINISTRATIVE AND JUDICIAL PROCEEDINGS**

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 Roche’s Motion *In Limine* to Preclude Amgen Inc. From Contradicting Arguments Made in Prior Administrative and Judicial Proceedings.
3. Exhibit 1 is a true and correct copy of a Preliminary Amendment Accompanying Petition to Make Special in the ‘298 File History (Paper 6/a), dated April 23, 1986 (R008891872-78).
4. Exhibit 2 is a true and correct copy of Applicant’s Amendment and Reply Under 37 C.F.R. §1.111 and §1.115 in the ‘298 File History (Paper 15), dated March 11, 1987 (R008892011-38).

5. Exhibit 3 is a true and correct copy of the Reply by Senior Party Lin to the Opposition of Junior Party Fritsch et al to Motions of Senior Party Lin to Terminate Interferences, submitted in Interference Nos. 102,096 and 102,097 on January 25, 1990 (AM-ITC 00328341-51).
6. Exhibit 4 is a true and correct copy of the Brief for the Senior Party Lin in Interference No. 102,097 (AM-ITC 00337649-715).
7. Exhibit 5 is a true and correct copy of M.P.E.P. § 2001.05 (5th ed. Rev. 3, May 1986).
8. Exhibit 6 is a true and correct copy of portions of the Written Opening Submission of Amgen for Trial in the United Kingdom (January 15, 2001).
9. Exhibit 7 is a true and correct copy of portions of the July 13, 2004 transcript from appeal proceedings in the House of Lords in *Kirin-Amgen Inc. v. Hoechst Marion Roussel Ltd.*
10. Exhibit 8 is a true and correct copy of portions of the November 22, 2000 Expert Report of Dr. Sydney Brenner in proceedings in the High Court of Justice in the United Kingdom.
11. Exhibit 9 is a true and correct copy of the October 8, 1992 Statement of Grounds submitted by Amgen in the EP 411 678 Opposition Proceedings.
12. Exhibit 10 is a true and correct copy of a Protest by Por-Hsuing Lai Regarding Inventorship in the '179 File History (Paper 28), dated July 23, 1993 (AM-ITC 00953584-89).

Dated: August 10, 2007

Respectfully submitted,

/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/ Kregg T. Brooks
Kregg T. Brooks

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