

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF MASSACHUSETTS**

AMGEN INC.,

Plaintiff,

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.

Civil Action No.: 1:05-cv-12237 WGY

**DECLARATION OF WILLIAM G. GAEDE, III, IN SUPPORT OF PLAINTIFF AMGEN
INC.’S BRIEF IN SUPPORT OF ITS MOTION *IN LIMINE* NO. 24 TO PRECLUDE
EVIDENCE FOR OBVIOUSNESS THAT VIOLATES 35 U.S.C. § 103
PROHIBITION THAT “PATENTABILITY SHALL NOT BE NEGATED BY THE
MANNER IN WHICH THE INVENTION WAS MADE” AND WHICH REFLECTS
THE SUBJECTIVE BELIEFS OF THE INVENTOR**

I, William G. Gaede, III, declare as follows:

1. I am a partner with McDermott Will & Emery LLP and counsel for Amgen, Inc. in the above-captioned matter.

2. I am submitting this declaration in support of Plaintiff Amgen Inc.’s Motion *in Limine* No. 24 To Preclude Evidence for Obviousness That Violates 35 U.S.C. § 103 Prohibition that “Patentability Shall Not Be Negated by the Manner in Which the Invention Was Made.

3. I have knowledge of the following, and if called as a witness, could and would testify competently to the contents herein.

4. Attached as Exhibit 1 is a true and correct copy of select pages from the Expert Report of Dr. John Lowe.

5. Attached as Exhibit 2 is a true and correct copy of select pages from Fritsch Party Motion M, filed in the United States Patent and Trademark Office, Interference Nos. 102,096 and 102,097 [AM 17 000440-441].

6. Attached as Exhibit 3 is a true and correct copy of select pages from Lin Party Opposition M, filed in the United States Patent and Trademark Office, Interference Nos. 102,096 and 102,097 [AM 17 000126-127].

7. Attached as Exhibit 4 is a true and correct copy of select pages from the Decision on Motions, filed in the United States Patent and Trademark Office, Interference No. 102,097 [AM 17 005577; 5580; 5582].

8. Attached as Exhibit 5 is a true and correct copy of select pages from Fritsch Party Brief, dated July 8, 1991, filed in the United States Patent and Trademark Office, Interference No. 102,097 [AM 17 008055; AM 17 008112-116].

9. Attached as Exhibit 6 is a true and correct copy of select pages from the Brief for the Senior Party Lin, filed in the United States Patent and Trademark Office, Interference No. 102,097 [AM 17 010603, 663, 664 and 669].

I declare, under penalty of perjury, under the laws of the United States, that the foregoing is true and correct and that this Declaration was completed at Boston, Massachusetts this 5th day of September 2007.

/s/William G. Gaede, III

William G. Gaede, III

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the Electronic Case Filing (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/ Michael R. Gottfried

Michael R. Gottfried