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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 KOWA PHARMACEUTICALS AMERICA,
4 INC., et al.,

5 Plaintiffs,

6 v.

14 Civ. 2758 (PAC)
14 Civ. 5575 (PAC)
14 Civ. 7934 (PAC)
15 Civ. 3935 (PAC)

8 AMNEAL PHARMAEUTICALS, LLC, et
9 al.,

10 Defendants.

11 New York, N.Y.
12 January 23, 2017
9:30 a.m.

13 Before:

14 HON. PAUL A. CROTTY,

15 District Judge

16 APPEARANCES

17 MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C.
Attorneys for Plaintiffs Kowa and Nissan

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4 KELLEY DRYE & WARREN, LLP
Attorneys for Defendant Lupin
5 BY: DOUGLASS C. HOCHSTETLER
CONSTANTINE KOUTSOUBAS

6 ALSO PRESENT:

7 ANDY CEPREGI, technician
8 GEOFF ROBERTS, technician
BRIAN SPARKS, technician

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1 (Trial resumed)

2 THE COURT: Good morning. Please be seated.

3 Mr. Maddox?

4 MR. MADDOX: Good morning, Judge. This morning we're
5 going to have the testimony --

6 MR. BAUER: With the court's permission, may I request
7 permission to address some objections that we couldn't resolve
8 last night about the slides? Can we do that before the
9 examination starts so we don't interrupt it?

10 THE COURT: All right.

11 MR. BAUER: All right. So under the court's rules,
12 last night at 7 o'clock defendants served their demonstratives,
13 and it's an 86 page slide back, and possibly if Mr. Maddox
14 could hand up to your Honor the binder.

15 MR. MADDOX: The judge is looking at them right now.

16 MR. BAUER: OK. If you could look at slides 348 to
17 355, there is a series of slides that start off saying
18 prosecution history record of the '993 patent.

19 THE COURT: Yes.

20 MR. BAUER: If you actually look at them, it's a
21 thinly veiled attempt to argue inequitable conduct. For
22 example, you can see that if we go to slide 355, the title;
23 record suggests examiner allegedly reviewed over 85 references
24 in a single day. That's essentially -- the witness has no
25 foundation. In fact, when he was deposed, the witness said he

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1 "does not have patents on anything." And now he's getting into
2 patent office procedure. We believe that's beyond clearly --

3 THE COURT: Why don't you bring that out on
4 cross-examination?

5 MR. BAUER: OK, your Honor.

6 THE COURT: It doesn't seem much of a basis for
7 objection. I mean I understand your argument, but bring it out
8 on cross-examination.

9 MR. BAUER: Thank you, your Honor.

10 THE COURT: OK. Mr. Maddox, you're all set?

11 MR. MADDOX: Yes. As I was about to say, your Honor,
12 we're going to hear from Dr. Kevin Roberts this morning, so we
13 would like to call Dr. Kevin Roberts.

14 THE COURT: Dr. Roberts.

15 KEVIN ROBERTS,

16 called as a witness by the defendants,

17 having been duly sworn, testified as follows:

18 THE COURT: OK, Dr. Roberts, come on up and sit down.
19 Make yourself comfortable. Bring yourself right up to the
20 microphone.

21 MR. MADDOX: Dr. Roberts, there should be some water
22 there for you.

23 Your Honor, there are a series of exhibits we're going
24 to be using today, and they have all been agreed except for one
25 which I'm not going to include in this list, but I'd like to

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1 give the list of exhibits that have been agreed as admissible
2 into evidence.

3 THE COURT: All right.

4 MR. MADDOX: DTX-034, 056, 057, 059, 247, 351, 360,
5 1305, 1308, 1309, 1310, 1311, 1312, 1314, 1315, 1316, 1318,
6 1319, 1327, 1332, 1334, 1335 and 1340. These are all exhibits
7 to which the plaintiff raised no objection in the process.

8 THE COURT: And you have handed these up? These are
9 the exhibits in volume 1 and volume 2, exhibits for direct
10 examination of Dr. Roberts?

11 MR. MADDOX: Yes, they are.

12 THE COURT: Any objection?

13 MR. BAUER: No objection, your Honor.

14 THE COURT: They are received in evidence.

15 MR. MADDOX: Thank you.

16 (Defendant's Exhibits 034, 056, 057, 059, 247, 351
17 received in evidence)

18 (Defendant's Exhibits 360, 1305, 1308, 1309, 1310
19 received in evidence)

20 (Defendant's Exhibits 1311, 1312, 1314, 1315, 1316
21 received in evidence)

22 (Defendant's Exhibits 1318, 1319, 1327, 1332 received
23 in evidence)

24 (Defendant's Exhibits 1334, 1335 and 1340 received in
25 evidence)

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