

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**AKER BIOMARINE AS
Petitioner**

v.

**NEPTUNE TECHNOLOGIES AND BIORESOURCES INC.
Patent Owner**

CASE IPR: Unassigned

Declaration of Dr. Albert C. Lee

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I. INTRODUCTION

1. My name is Dr. Albert C. Lee. I have been retained by counsel for Petitioners Aker BioMarine AS to testify as an expert in this inter partes review.

2. I am currently a Senior Scientist at Chemir Analytical Services, a division of Evans Analytical Group. Chemir is a commercial laboratory, specializing in, amongst other things, analytical chemistry. Among other services, Chemir designs and conducts analytical testing of investigational and commercial products and samples. Chemir has particular expertise in gas chromatography (GC), high performance liquid chromatography (HPLC), and inductively coupled plasma mass spectrometry (ICP-MS). These techniques are described in Exhibit A.

3. In my capacity as a Senior Scientist, I regularly supervise the development and performance of known and novel analytical techniques for the identification and quantification of components in various substances. My duties include developing and reviewing analytical methods, reviewing and interpreting data, and preparing reports describing analytical testing and results. Since obtaining my Ph.D. in Organic Chemistry from Northwestern University, I have obtained more than 20 years of experience in synthetic and analytical chemistry, including designing, conducting and interpreting results derived from chemical analyses, and supervising the design and performance of analytical methods. I am

an expert in the fields of gas chromatography (GC) high performance liquid chromatography (HPLC), and inductively coupled plasma mass spectrometry (ICP-MS). My *curriculum vitae* is attached as Exhibit B.

4. In forming my opinions, I have considered and relied upon my education, background, and experience in analytical chemistry, as well as the methods and data generated in carrying out the analyses described herein.

II. SAMPLE ANALYSIS

5. Chemir received eleven samples for analysis, identified as follows:

Sample Name	Chemir Sample Identifier
VB2 8/8/13 FH	S1
VB8 8/9/13 FHE	S2
SB2 8/19/2013 BEA-P0	S6
SB6 8/19/2013 BEA-P1	S7
SB10 8/19/2013 BEA-P2	S8
SB14 8/19/2013 BEA-S0	S9
SB18 8/19/2013 BEA-S1	S10
SB22 8/19/2013 BEA-S2	S11
SB26 09/082013 BEA-SU0	S18
SB30 09/08/2013 BEA-SU1	S19

6. Each of these samples was prepared and analyzed for fatty acid concentration, astaxanthin concentration, and metal concentration, in accordance with the methods described in Exhibit A. The results of these analyses are also provided in Exhibit A.

7. I supervised these analyses, including the method development, sample preparation, sample analysis and data analysis, and confirm that Chemir properly implemented and adhered to these methods, and obtained the reported results. It is my opinion that the results reported herein reliably reflect the compositions of the above-referenced samples.

III. ADDITIONAL INFORMATION

8. During the previous four years, I have testified as an expert, either at trial or by deposition, in the following cases: Albany Molecular Research, Inc. and Sanofi-Aventis vs. DRL, Ltd. and DRL, Inc. Civil Action No. 09-4638 Deposition December 2010, US District Court District of New Jersey; Solutech Corp., Inc. v. Steve Agnew, Terry Ingle and Suzette Ingle., Civil Action No. 95-2-00234-9 Testimony December 2011, Superior Court of Washington for Yakima County; Cephalon, Inc. and Cephalon France vs. Watson Laboratories, Inc., Sandoz Inc., Lupin Ltd., Apotex Corp. and Apotex Inc., MDL Docket No. 1:10-md-2200-GMS

Deposition January 2012, Testimony July 2012 US District Court District of Delaware; Kaneka Corporation vs. Zhejiang Medicine Co., Ltd., ZMC-USA, LLC, Kiamen Kingdomway Group Company, Pacific Rainbow International, Inc., Mitsubishi Gas Company, Inc., Maypro Industries, Inc. and Shenzhou Biology & Technology Co., Ltd., Deposition May 2012, Testimony July 2012; Endo Pharmaceuticals, Inc. vs. Mylan Pharmaceuticals, Inc. and Mylan, Inc., Civil Action No. 11-cv-00717-JEI-KW Deposition March 2013, US District Court of Delaware.

9. For completing the analyses described in this report and preparing this report, total fees paid to Chemir has been ca. \$215,220 based on a standard rate of \$550/h plus a 70% surcharge for expedited work. Chemir will be compensated at its standard rate of \$550/h for consulting and/or testimony that I provide in this case. I am a salaried employee of Chemir and receive no additional compensation for working on this case.

10. I further declare that all statement made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of title 18 of the United States Code, and that such willful

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