

## UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATIENT TRIAL AND APPEAL BOARD

AMNEAL PHARMACEUTICALS LLC, PAR PHARMACEUTICALS, INC. and  
WOCKHARDT BIO AG,

Petitioners,

v.

JAZZ PHARMACEUTICALS, INC.,

Patent Owner

Case IPR2015-00554

Patent 7,668,730

Oral deposition of DR. JOSEPH DIPIRO, taken at the offices of Quinn Emanuel Urquhart & Sullivan, LLP, 51 Madison Avenue, 22nd Floor, New York, New York 10010, on Wednesday, February 3, 2016, at 9:35 a.m., before Anthony Armstrong, a Realtime Systems Administrator, Certified Realtime Reporter, Certified Court Reporter and Notary Public of the State of New York.

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 19  
 20  
 21  
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1 JOSEPH DIPIRO, Pharma.D., a witness, having  
 2 first been duly sworn, testified as follows:  
 3 MR. RUEDY: For the record, we're  
 4 here today for a deposition in a series of  
 5 enter parties' review IPR Nos. 2015-00545,  
 6 546, 547, 548, 551, 554, and the related  
 7 joined cases. Good morning.  
 8 MR. STOPS: Shall we do  
 9 introductions?  
 10 MR. RUEDY: Sure.  
 11 MR. STOPS: This is Eric Stops from  
 12 Quinn Emanuel for the patent owner Jazz  
 13 Pharmaceuticals and the witness. With me is  
 14 Evangeline Shih, also from Quinn Emanuel.  
 15 MR. RUEDY: Matthew Ruedy from Maddox  
 16 Edwards representing Amneal Pharmaceuticals.  
 17 MR. BERMAN: Rich Berman from Arent  
 18 Fox representing Par Pharmaceutical.  
 19  
 20 (Testimony continued on next  
 21 page.)  
 22

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 3 WITNESS PAGE  
 4 DR. JOSEPH DIPIRO  
 By Mr. Ruedy 4  
 5  
 6 EXHIBITS  
 7 NUMBER DESCRIPTION PAGE  
 8  
 9 (There were no exhibits marked)  
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1 DIRECT EXAMINATION  
 2 BY MR. RUEDY:  
 3 Q. Good morning.  
 4 A. Good morning.  
 5 Q. Could you please state your name and  
 6 address for the record.  
 7 A. Joseph T. DiPiro. And my residence  
 8 is at 3991 Reads Landing Circle, Richmond,  
 9 Virginia.  
 10 Q. I just want to go over a few ground  
 11 rules before we get started with the deposition.  
 12 I'm going to ask you a series of  
 13 questions. When you answer, please do so verbally  
 14 for the record, as our court reporter here will be  
 15 transcribing your verbal answers. So no head  
 16 nods, no yes, no shaking of the head, if that  
 17 works.  
 18 A. I may slip from time to time, but I  
 19 will do my best. I would not mind a reminder.  
 20 Q. Sure. If you don't understand one of  
 21 my questions, please ask for clarification. If  
 22 you do answer, that means that you understood the

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1 question. Okay?

2 A. Yes.

3 Q. And if you need a break at any time,

4 just please let me know. All I ask is if there

5 is a question pending, that the question be

6 answered prior to us taking a break.

7 A. Sure.

8 Q. Is there any reason that you cannot

9 give full and complete answers today?

10 A. No.

11 Q. Have you ever been deposed before?

12 A. Yes.

13 Q. How many times?

14 A. Twice.

15 Q. What did each of those cases involve?

16 A. The most recent was about three years

17 ago, and was a personal property dispute related

18 to my family.

19 Q. And the second?

20 A. Was a -- approximately 10 years ago,

21 with some followup in a year or two after, a

22 patent case that I was working with Jones Day

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1 was?

2 A. The one that I referred to first

3 occurred about 10 years ago was Skelaxin.

4 Q. And then the other one?

5 A. I don't recall.

6 Q. Was either one of those cases Elan v.

7 Corepharma?

8 A. That could be. That sounds right.

9 Q. And was that the Skelaxin case?

10 A. I believe so. Again, it's -- I have

11 not refreshed my memory on this, so it's going

12 back 10 years.

13 Q. And then the second case, was that

14 King Pharma versus Eon?

15 A. That sounds right, yes, to the best

16 of my memory.

17 Q. And Quinn Emanuel was your counsel

18 for that case, correct?

19 MR. STOPS: Objection. Foundation.

20 A. I was working with lawyers at Jones

21 Day.

22 Q. Okay. How many cases have you worked

Page 8

1 from.

2 Q. And do you remember the name of that

3 case?

4 A. I remember some points about it, the

5 particular drug involved in the patent, and I

6 probably couldn't recall all the parties involved

7 in the litigation.

8 Q. But from your general recollection,

9 what was the drug involved?

10 A. Skelaxin.

11 Q. How many patent cases have you been

12 involved with?

13 A. I know -- so prior to that I was

14 involved in another report without deposition

15 with Jones Day. It may have been a couple of

16 years earlier. And between that experience and

17 the first one that I related to, I'm not clear

18 how many patents were involved there. To my way

19 of thinking, there were two cases that I don't

20 recall that they were related.

21 Q. Okay. And in that second case with

22 Jones Day, do you recall what the drug at issue

Page 7

1 on -- how many patent cases have you worked with

2 Jones Day on?

3 A. So the only ones that I was involved

4 with -- so 10 years ago one involved report and

5 deposition with Skelaxin. Within the next year

6 or two, there were followup reports; no further

7 depositions. And then a couple of years prior to

8 that, a report with Jones Day. And those are the

9 only ones related to patents that I have been

10 involved with.

11 Q. Have you ever testified in a district

12 court case?

13 A. I once provided testimony for a

14 malpractice case. I'm not sure what the

15 jurisdiction was. And this would have been

16 almost a decade ago.

17 Q. But not a patent case?

18 A. Not a patent case.

19 Q. Are you represented by counsel today?

20 A. I'm working in conjunction with the

21 legal counsel for Quinn Emanuel.

22 Q. What did you do to prepare for

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1 today's deposition?  
 2 A. I worked in conjunction with legal  
 3 counsel to review the relevant documents that are  
 4 cited in my statement and prepare the -- my  
 5 statement.  
 6 Q. So as far as preparing for today's  
 7 deposition, did you meet with counsel?  
 8 A. Yes.  
 9 Q. Who did you meet with?  
 10 A. With the counsel that you see here,  
 11 and Frank Calvosa.  
 12 Q. How many days did you meet?  
 13 A. Two days.  
 14 Q. And you mentioned that you reviewed  
 15 documents to prepare for your deposition.  
 16 What did you review specifically?  
 17 A. They're all stated in my -- and  
 18 listed in my statement. It includes the ACA  
 19 materials and the patent documents and the  
 20 declaration of Dr. Valuck among those that I  
 21 reviewed.  
 22 Q. Okay. So referring to your expert

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1 declarations, you submitted six of them for six  
 2 different inter partes reviews -- proceedings,  
 3 correct?  
 4 A. Yes.  
 5 Q. I'm just going to shortcut and say  
 6 IPR, if that's okay with you, for inter partes  
 7 review.  
 8 A. I know we have used that term, but  
 9 remind me what that acronym --  
 10 Q. Inter partes review?  
 11 A. Yes.  
 12 Q. I'm just referring to the general  
 13 type of case that we're here for today, if that's  
 14 okay with your understanding.  
 15 A. Right. I don't have a working  
 16 definition of that term, but I thank you for the  
 17 explanation.  
 18 Q. Okay. It just saves me from having  
 19 to repeat inter partes review.  
 20 A. Sure.  
 21 Q. Each of these IPRs were filed either  
 22 by Par Pharmaceutical or Amneal Pharmaceuticals,

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1 correct?  
 2 A. I'm not clear which documents you're  
 3 referring to.  
 4 Q. I'm just referring to the  
 5 petitioner's on the IPRs. I'll submit to you  
 6 that each of these IPRs were filed initially by  
 7 Par Pharmaceutical and or Amneal pharmaceuticals  
 8 LLC.  
 9 Just to make things easier, I'm  
 10 referring to the entities that filed the IPRs as  
 11 the petitioners, if that's okay with you.  
 12 A. Well, you know, I don't have an  
 13 opinion about that because I'm not familiar with  
 14 the legal process, who files what.  
 15 If you're asking me is that the way it  
 16 happened --  
 17 Q. I'm just asking you so that we have  
 18 an understanding of what I am referring to when I  
 19 say petitioner. I'm referring to the parties  
 20 that filed the IPRs in front of the patent  
 21 office. That's all.  
 22 A. Okay. Yes.

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1 Q. So the six different patents in these  
 2 IPRs are owned by Jazz Pharmaceuticals, right?  
 3 A. That's my understanding.  
 4 Q. And these six patents generally deal  
 5 with restricted drug distribution systems, right?  
 6 A. Yes.  
 7 Q. Are you okay with that general  
 8 description? I'm not going to hold you to it  
 9 necessarily, but I just want something that we  
 10 can agree on that the patents generally cover.  
 11 A. Yes.  
 12 Q. Have you read each of the six  
 13 patents?  
 14 A. Yes.  
 15 Q. Did you read the entirety of each of  
 16 them?  
 17 A. Yes. And I recognize that much of  
 18 that is the same or very similar from one to the  
 19 next.  
 20 Q. When were you first contacted about  
 21 this case?  
 22 A. I don't recall the exact date, but it

Page 13

1 may have been in October -- in the middle of the  
 2 fall this past year, 2015.  
 3 Q. Who contacted you?  
 4 A. Would have been Angela Chi.  
 5 Q. When you were contacted about this  
 6 case, what were you asked to do?  
 7 MR. STOPS: Objection, to the extent  
 8 the question calls for attorney/client  
 9 communications. Maybe there's a way you can  
 10 ask that question without getting to --  
 11 MR. RUEDY: I'm not looking for  
 12 protected information.  
 13 BY MR. RUEDY:  
 14 Q. I'm just looking in general what were  
 15 you asked to do.  
 16 MR. STOPS: That question still may  
 17 call for attorney/client communications.  
 18 You can answer generally to the extent  
 19 you can without revealing attorney/client  
 20 compilations.  
 21 THE WITNESS: Repeat the question.  
 22 MR. RUEDY: If you can read it back,

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1 Q. The subject matter of the patents,  
 2 the restricted drug distribution system.  
 3 A. Well, I relied on what was supplied  
 4 by counsel in terms of the materials that are  
 5 cited in my report. I did not obtain those  
 6 independently.  
 7 Q. So my question is, did you do any  
 8 other research beyond the materials provided by  
 9 counsel?  
 10 A. Minimal.  
 11 Q. What do you mean by minimal?  
 12 A. I spent a small amount of time  
 13 reading about Xyrem and the manufacturers'  
 14 restricted distribution system, the material that  
 15 was on their website.  
 16 Q. Was all the materials that you  
 17 reviewed on the Xyrem website?  
 18 MR. STOPS: Objection, form.  
 19 A. I'm trying to recall what I looked  
 20 at. I really didn't spend a minimal amount of  
 21 time outside the documents that were provided,  
 22 and so I do recall specifically that I looked up

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1 please.  
 2 (The record was read.)  
 3 \*\*\*\*\*  
 4 A. Well, I was asked if I would be  
 5 willing to provide an opinion about the case and  
 6 the issues at hand.  
 7 BY MR. RUEDY:  
 8 Q. After you were contacted, were you  
 9 asked to do any research for this case?  
 10 A. So it depends on what you mean by  
 11 research. I would say yes, in that I then went  
 12 through the relevant documents in the case to  
 13 gain a better understanding of all the issues.  
 14 Q. Did you do your own independent  
 15 literature search?  
 16 A. I do literature searches for a lot of  
 17 things all the time. So specifically for what  
 18 purpose?  
 19 Q. I'm just asking generally if -- once  
 20 you were contacted about this case whether you  
 21 chose to research the subject matter on your own?  
 22 A. What subject matter?

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1 about Xyrem to become more familiar with it and  
 2 redistricted distribution system. I don't recall  
 3 spending time doing other types of research at  
 4 that point time. You've directed me to this  
 5 initial contact and that time period.  
 6 Q. When you say a minimal amount of  
 7 time, can you quantify that at all?  
 8 A. Probably 30 minutes.  
 9 Q. Prior to being contacted in this  
 10 case, had you heard of Xyrem previously?  
 11 A. I had heard of it, yes.  
 12 Q. In what capacity?  
 13 A. I don't recall from what source the  
 14 information came from. It may have been one of a  
 15 number of news feeds that we routinely receive.  
 16 So I don't recall where it came from, but I was  
 17 aware of the name.  
 18 Q. Do you recall when you first heard of  
 19 Xyrem?  
 20 A. No.  
 21 Q. Prior to being contacted in this  
 22 case, had you heard of GHP?

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