

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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INNOPHARMA LICENSING, INC.,            )  
INNOPHARMA LICENSING LLC,            )  
INNOPHARMA INC., INNOPHARMA LLC )  
MYLAN PHARMACEUTICALS INC. and    )  
MYLAN INC.,                                )  
  ) Case Nos.  
  ) IPR2015-00902  
vs.    )  
SENJU PHARMACEUTICAL CO., LTD., ) IPR2015-00903  
BAUSCH & LOMB, INC., and BAUSCH )  
& LOMB PHARMA HOLDINGS CORP.,    )  
  ) Patent Owner.                            )  
-----)

CONFIDENTIAL SUBJECT TO THE PROTECTIVE ORDER

VIDEOTAPED DEPOSITION OF  
SHIROU SAWA

Washington, DC 20001

Tuesday, March 1, 2016

<p style="text-align: right;">Page 2</p> <p>1 Tuesday, March 1, 2016 2 9:28 a.m. 3 4 5 VIDEOTAPED DEPOSITION OF SHIROU SAWA, held at the 6 offices of: 7 8 FINNEGAN HENDERSON FARABOW 9 GARRETT &amp; DUNNER, LLP 10 901 New York Avenue NW 11 Washington, DC 20001 12 13 Pursuant to notice, before Denise D. Vickery, 14 Registered Merit Reporter, Certified Realtime 15 Reporter, and Notary Public in and for the District 16 of Columbia. 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S (continued) 2 3 For the Lupin Petitioner: 4 CROWELL &amp; MORING 5 1001 Pennsylvania Avenue NW 6 Washington, DC 20004-2595 7 202. 624. 2947 8 BY: DEBORAH H. YELLIN, ESQ. 9 dyellin@crowell.com 10 GOODWIN PROCTER LLP 11 The New York Times Building 12 620 Eighth Avenue 13 New York, NY 10018 14 212. 813. 8800 15 BY: ELIZABETH J. HOLLAND, ESQ. 16 eholland@goodwinprocter.com 17 18 Also Present: 19 Naoko Kishida, Senju Pharmaceuticals 20 Rika T. Mitrik, Interpreter 21 Yuko Kashiwagi, Check Interpreter 22 T.J. O'Toole, Videographer</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S 2 3 For the InnoPharma Petitioner: 4 ALSTON &amp; BIRD LLP 5 333 South Hope Street, Sixteenth Floor 6 Los Angeles, CA 90071 7 213.576.1000 8 BY: HIDETADA JAMES ABE, ESQ. 9 james.abe@alston.com 10 11 For the Patent Owner: 12 FINNEGAN HENDERSON FARABOW GARRETT &amp; DUNNER, LLP 13 901 New York Avenue NW 14 Washington, DC 20001 15 202. 408. 4000 16 BY: BRYAN C. DINER, ESQ. 17 bryan.diner@finnegan.com 18 BY: JUSTIN J. HASFORD, ESQ. 19 justin.hasford@finnegan.com 20 BY: CHIAKI FUJIWARA, ESQ. 21 Chiaka.fujiwara@finnegan.com 22</p>	<p style="text-align: right;">Page 5</p> <p>1 I N D E X 2 3 CROSS-EXAMINATION OF SHIROU SAWA PAGE 4 By Mr. Abe 12 5 -o0o- 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>

Page 6			Page 8		
1	E X H I B I T S		1	Bird, for InnoPharma Petitioner.	
2			2	MS. YELLIN: Deborah Yellin for	
3	PRIOR MARKED EXHIBITS		3	Petitioner Lupin.	
4	EXHIBIT	DESCRIPTION PAGE	4	MS. HOLLAND: Elizabeth Holland of	
5	Senju Exhibit 2098	IPR2015-00902 18	5	Goodwin Procter for Lupin.	
6		Declaration of Shirou Sawa	6	MR. DINER: Bryan Diner, Finnegan	
7		Page 1 through Page 663	7	law firm, for the Patent Owner Senju, et al. With	
8		English Translation	8	me is -- are my colleagues Chiaki Fujiwara, Justin	
9	Innopharma EX1001	23	9	Hasford, our check interpreter Yuko Kashiwagi, and	
10		Page 1 through Page 9	10	Naoko Kishida from Senju.	
11		US Patent No. 8,669,290	11	THE VIDEOGRAPHER: Thank you.	
12		Sawa et al.	12	Will the lead interpreter identify	
13		-o0o-	13	herself for the record.	
14			14	THE INTERPRETER: Rika Mitrik.	
15			15	THE VIDEOGRAPHER: Thank you.	
16			16	Will the court reporter please	
17			17	swear in the lead interpreter.	
18			18	- - -	
19			19	RIKA MITRIK	
20			20	was duly sworn to interpret English into Japanese	
21			21	and Japanese into English language.	
22			22	THE VIDEOGRAPHER: Will the lead	
Page 7			Page 9		
1	P R O C E E D I N G S		1	interpreter please assist the court reporter in	
2	- - -		2	swearing in the witness.	
3	THE VIDEOGRAPHER: On the record		3	- - -	
4	with disk 1 of the deposition of -- video deposition		4	SHIROU SAWA	
5	of Mr. Shirou Sawa taken by the Petitioner in the		5	called for examination, and, after having been duly	
6	matter of InnoPharma Licensing Incorporated, et al.		6	sworn, was examined and testified as follows:	
7	versus Senju Pharmaceuticals Company, Limited, et		7	CHECK INTERPRETER: The check	
8	al, being heard before the Patent Trial and Appeal		8	interpreter for Senju asks: Do you wish to have her	
9	Board of the United States Patent and Trademark		9	sworn in?	
10	Office, Case No. IPR 2015-00902.		10	MR. DINER: Please swear her in.	
11	This deposition is being held at		11	- - -	
12	the Finnegan law offices located at 901 New York		12	YUKO KASHIWAGI	
13	Avenue Northwest in Washington, DC on March 1, 2016		13	was duly sworn to interpret English into Japanese	
14	at approximately 9:28 a.m.		14	and Japanese into English language.	
15	My name is T.J. O'Toole. I am the		15	(The following proceedings took	
16	certified legal video specialist. The court		16	place through the official interpreter.)	
17	reporter is Denise Vickery. We are both here		17	MR. DINER: James, before we get	
18	representing Gregory Edwards, LLC.		18	started, we noticed that the declaration for	
19	Will counsel please identify		19	Mr. Sawa in the 903 --	
20	themselves and indicate which parties they		20	MR. ABE: Yes.	
21	represent.		21	MR. DINER: -- IPR had some	
22	MR. ABE: James Abe, Alston &		22	mistakes and printing errors in the PDFs.	

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1 MR. ABE: Right. Right.  
2 MR. DINER: And so we have -- but  
3 as you know, the declaration is exactly the same and  
4 it's used for both proceedings 902 and 903.  
5 So as a courtesy, we have brought  
6 today for you a complete copy with the printing  
7 errors corrected in the 903 IPR. So I'd like to  
8 give that to you.  
9 MR. ABE: Okay.  
10 MR. HASFORD: And before we begin,  
11 Senju has an objection. Senju objects to  
12 Ms. Holland being here.  
13 Ms. Holland, you're not counsel of  
14 record in these IPR proceedings, and it's our  
15 understanding that you're not signed on under the  
16 PTAB protective order. Will you agree to leave? If  
17 not, we will have to call the Board.  
18 MR. ABE: I believe I have  
19 forwarded Ms. Holland's protective order -- signed  
20 protective order to counsel for Finnegan.  
21 MR. HASFORD: I don't believe we  
22 ever received that, and she's not counsel of record

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1 in any event.  
2 MS. HOLLAND: Well, if I'm signed  
3 on under the protective order, then I can be here.  
4 MR. HASFORD: Okay. Well, I don't  
5 believe we received that.  
6 MR. DINER: We'll need to  
7 establish that. James, can you send that?  
8 MR. ABE: Yes, let me try to find  
9 it. It's been a while.  
10 MS. YELLIN: It went to you on  
11 February 8, 2016 at 9:21 p.m. from James.  
12 Do you want me to forward it to  
13 you, James?  
14 MR. ABE: I think I found it.  
15 Yes, February 8th. Yes, Elizabeth Holland signed  
16 February 8th for the protective order in this case.  
17 I'm happy to reforward it.  
18 MR. HASFORD: Okay. I'm sorry.  
19 Say it again.  
20 MR. ABE: Yes. Ms. Holland's  
21 signed protective order is there.  
22 MR. HASFORD: Can you please

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1 forward it to me real quick?  
2 MR. ABE: Sure.  
3 MR. HASFORD: Yeah.  
4 MR. ABE: Just to you?  
5 MR. HASFORD: Just -- yeah.  
6 Okay. Thank you.  
7 CROSS-EXAMINATION  
8 BY MR. ABE:  
9 Q. Okay. Good morning, Mr. Sawa.  
10 A. Good morning.  
11 Q. Can you state your name for the record?  
12 A. My name is Shirou Sawa.  
13 Q. I understand you've been deposed  
14 previously in relation to a District Court case; is  
15 that right?  
16 A. I couldn't catch the first part.  
17 MR. ABE: If you could repeat  
18 that.  
19 THE WITNESS: That's correct.  
20 BY MR. ABE:  
21 Q. Have you been deposed aside for that,  
22 from that deposition?

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1 A. No.  
2 Q. Have you ever testified in an IPR  
3 proceeding?  
4 And IPR stands for inter partes review  
5 patent proceeding at the United States Patent  
6 Office.  
7 A. No, I have not.  
8 Q. Okay. I'll go over the basic rules for  
9 you.  
10 A. Okay.  
11 Q. I represent the InnoPharma entities.  
12 And I will be asking questions today. And I'll ask  
13 you to answer my questions. Your counsel might  
14 object. But unless your counsel instructs you not  
15 to answer, I'll expect you to answer.  
16 A. Okay.  
17 Q. And please give audible answers.  
18 A. Okay.  
19 Q. And if you don't understand a question  
20 I'm asking, just let me know.  
21 A. Okay.  
22 Q. If you don't -- let me start over.

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1                   If you answer my question, I'll assume  
2 you understand -- understood my question.  
3           **A.** Okay.  
4           **Q.** Is there any reason you can't testify  
5 truthfully today?  
6           **A.** No, there isn't.  
7                   MR. ABE: Will counsel stipulate  
8 that Mr. Sawa is here for his cross-examination for  
9 both the IPR 2015-00902 and 903?  
10                  MR. DINER: Yes.  
11                  MR. ABE: And will counsel also  
12 stipulate that my questions will apply for both IPR  
13 proceedings?  
14                  MR. HASFORD: Unless he specifies  
15 otherwise.  
16                  MR. ABE: Unless I specify  
17 otherwise.  
18                  MR. DINER: That's fine.  
19 BY MR. ABE:  
20           **Q.** Okay. Mr. Sawa, how did you --  
21                   MR. DINER: One -- I'm sorry,  
22 James.

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1                   MR. ABE: Yes.  
2                   MR. DINER: Just one thing. I  
3 think we have agreed that because they are the  
4 combined deposition, it's going to be seven -- max  
5 of seven-hour deposition time.  
6                   MR. ABE: Yes, that's fine.  
7                   MR. DINER: Okay.  
8 BY MR. ABE:  
9           **Q.** Mr. Sawa, how did you prepare for  
10 today's examination?  
11                  MR. DINER: Instruct the witness  
12 just to not divulge any communications that you had  
13 with anyone that you met with in preparation of your  
14 deposition.  
15                  THE WITNESS: I consulted with  
16 attorneys from Finnegan.  
17 BY MR. ABE:  
18           **Q.** Which attorneys?  
19           **A.** Bryan and Chiaki and Justin.  
20           **Q.** When did you meet with them?  
21           **A.** (Pause). It was around December of  
22 last year.

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1           **Q.** December when you had your District  
2 Court deposition?  
3           **A.** Yes.  
4           **Q.** Did you meet with the attorneys from  
5 Finnegan after your District Court deposition and  
6 before today?  
7                   THE INTERPRETER: Witness asked to  
8 repeat that.  
9 BY MR. ABE:  
10           **Q.** Let me withdraw the question, ask it a  
11 little differently.  
12                  Did you meet with your attorneys from  
13 Finnegan, aside from today, in the past week?  
14           **A.** Yes.  
15           **Q.** When was that?  
16           **A.** Yesterday and the day before.  
17           **Q.** And those were for preparation for this  
18 deposition?  
19           **A.** Yes.  
20           **Q.** How many hours for each day did you  
21 meet with the attorneys?  
22           **A.** About eight hours.

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1           **Q.** For each day?  
2           **A.** Yes.  
3           **Q.** Did you meet with anybody other than  
4 your Finnegan attorneys?  
5                   MR. DINER: Objection. Vague.  
6                   THE WITNESS: No.  
7 BY MR. ABE:  
8           **Q.** Did you review any documents in  
9 preparation for today's cross-examination?  
10                  MR. DINER: You may answer that  
11 question yes or no, but do not disclose or divulge  
12 any documents you may have reviewed.  
13                  CHECK INTERPRETER: Check  
14 interpreter for Senju would note that it wasn't the  
15 contents of the documents that Mr. Diner mentioned  
16 in his objection. It was divulge any documents you  
17 may have reviewed.  
18                  THE INTERPRETER: (Translating).  
19                  CHECK INTERPRETER: Thank you.  
20                  THE WITNESS: Yes.  
21 BY MR. ABE:  
22           **Q.** Did you review any materials that is

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