

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**SANOFI-AVENTIS U.S. LLC AND
REGENERON PHARMACEUTICALS, INC.,
Petitioners**

v.

**GENENTECH, INC. AND CITY OF HOPE,
Patent Owners**

Case IPR2015-01624

U.S. Patent No. 6,331,415

**PETITIONERS' OBJECTIONS TO EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners sanofi-aventis U.S. LLC and

Regeneron Pharmaceuticals, Inc. object to the admissibility of the following

exhibits served by Patent Owners Genentech, Inc. and City of Hope on May 16,

2016.

I. IDENTIFICATION OF CHALLENGED EVIDENCE AND GROUNDS FOR OBJECTIONS

Evidence	Objections
Exhibit 2003 Expert Declaration of John Fiddes, Ph.D. (Second Declaration of Steven Lanier McKnight, Reexamination Nos. 90/007,542 and 90/007,859 (June 3, 2008))	Not Made Available for Deposition: Object to admission of this declaration unless this witness is made available for a deposition. <i>See Ikaria, Inc. v. Geno LLC</i> , Case IPR2013-00253, slip. op. (P.T.A.B. April 1, 2014) (Paper 20)
Exhibit 2019 (Expert Declaration of John Fiddes)	<i>See Appendix A, attached hereto.</i>
Exhibit 2020 (Foote Deposition)	Previously objected to on April 28, 2016. <i>See Paper 26 .</i>
Exhibit 2021 (Expert Declaration of Reiner Gentz)	Opinion testimony by a lay witness (FRE 701). E.g., Dr. Gentz lacked a Ph.D. in molecular biology as of April 8, 1983. <i>See objections to specific paragraphs in Appendix B, attached hereto.</i>
Exhibit 2023 (Expert Report of Gregory Winter, <i>Eli Lilly v. Genentech</i>)	Previously objected to. <i>See Paper 26</i>
Exhibit 2024 (Transcript of Gregory Winter Deposition,	Previously objected to. <i>See Paper 26</i>

<i>Eli Lilly v. Genentech</i>)	
Exhibit 2026 (Arthur Riggs Declaration)	Not Made Available for Deposition: Object to admission of this declaration unless this witness is made available for a deposition. <i>See Ikaria, Inc. v. Geno LLC</i> , Case IPR2013-00253, <i>slip. op.</i> (P.T.A.B. April 1, 2014) (Paper 20).
Exhibit 2027 (Ronald Wetzel Declaration)	Not Made Available for Deposition: Object to admission of this declaration unless this witness is made available for a deposition. <i>See Ikaria, Inc. v. Geno LLC</i> , Case IPR2013-00253, <i>slip. op.</i> (P.T.A.B. April 1, 2014) (Paper 20).
Exhibit 2028 (Jeanne Perry Declaration)	Not Made Available for Deposition: Object to admission of this declaration unless this witness is made available for a deposition. <i>See Ikaria, Inc. v. Geno LLC</i> , Case IPR2013-00253, <i>slip. op.</i> (P.T.A.B. April 1, 2014) (Paper 20).
Exhibit 2029 (William Holmes Declaration)	Not Made Available for Deposition: Object to admission of this declaration unless this witness is made available for a deposition. <i>See Ikaria, Inc. v. Geno LLC</i> , Case IPR2013-00253, <i>slip. op.</i> (P.T.A.B. April 1, 2014) (Paper 20).
Exhibit 2030 (Michael Rey Declaration)	Not Made Available for Deposition: Object to admission of this declaration unless this witness is made available for a deposition. <i>See Ikaria, Inc. v. Geno LLC</i> , Case IPR2013-00253, <i>slip. op.</i> (P.T.A.B. April 1, 2014) (Paper 20).
Exhibit 2031 (Michael Mumford Declaration)	Not Made Available for Deposition: Object to admission of this declaration unless this witness is made available for a deposition. <i>See Ikaria, Inc. v. Geno LLC</i> , Case IPR2013-00253, <i>slip. op.</i> (P.T.A.B. April 1, 2014) (Paper 20).
Exhibit 2032 (Shmuel Cabilly Declaration)	Not Made Available for Deposition: Object to admission of this declaration unless this witness is made available for a deposition. <i>See Ikaria, Inc. v. Geno LLC</i> , Case IPR2013-00253, <i>slip. op.</i> (P.T.A.B. April 1, 2014) (Paper 20).
Exhibit 2033 (Julie	<i>See Appendix C, attached hereto.</i>

Davis Declaration)	
Exhibit 2035 (U.S. Patent No. 4,495,280 File History)	Previously objected to. <i>See</i> Paper 26.
Exhibit 2040 (U.S. Patent No. 4,299,916)	Previously objected to. <i>See</i> Paper 26.
Exhibit 2041 (U.S. Patent No. 3,996,345)	Previously objected to. <i>See</i> Paper 26.
Exhibit 2057 (U.S. Patent No. 4,208,479)	Previously objected to. <i>See</i> Paper 26.
Exhibit 2059 (U.S. Patent No. 4,193,983)	Previously objected to. <i>See</i> Paper 26.
Exhibit 2060 (Gentz et al. Publication)	Hearsay (FRE 801, 802, 803): The exhibit sets forth inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d).
Exhibit 2072 (Expert Report of Carlo M. Croce, M.D.)	Hearsay (FRE 801, 802, 803): The exhibit sets forth inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d). Relevance (FRE 402): This exhibit contains the statements of a different expert in a district court litigation concerning, <i>inter alia</i> , the Cabilly III Patent and therefore is irrelevant to the § 103 invalidity grounds currently instituted in the instant proceeding.
Exhibit 2090 (Deposition Transcript of James H. Sabry, M.D.)	Hearsay (FRE 801, 802, 803): The exhibit sets forth inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d).
Exhibit 2091 (Deposition Transcript of Timothy R. Schwartz)	Hearsay (FRE 801, 802, 803): The exhibit sets forth inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d).
Exhibit 2093 (Expert	Hearsay (FRE 801, 802, 803): The exhibit sets forth

Report of Robert C. Rickert, Ph.D.)	inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d).
Exhibit 2116 (Davis Declaration Appendix C)	Insufficient Basis for Opinion (FRE 702, 703 and 705, 37 C.F.R. §42.65). Fails to provide underlying data sufficient to support opinion. Summaries to Prove Content (FRE 1006). Fails to provide underlying data. Demonstrative Exhibit: "Demonstrative exhibits are not evidence." <i>EMC Corp. v. Personalweb Tech., LLC</i> , IPR2013-00082, Paper 66 at 3 (P.T.A.B. Dec. 13, 2013).
Exhibit 2117 (Davis Declaration Appendix D)	Insufficient Basis for Opinion (FRE 702, 703 and 705, 37 C.F.R. §42.65). Fails to provide underlying data sufficient to support opinion. Summaries to Prove Content (FRE 1006). Fails to provide underlying data. Demonstrative Exhibit: "Demonstrative exhibits are not evidence." <i>EMC Corp. v. Personalweb Tech., LLC</i> , IPR2013-00082, Paper 66 at 3 (P.T.A.B. Dec. 13, 2013).
Exhibit 2122 (Feldman et al. Publication)	Hearsay (FRE 801, 802, 803): The exhibit sets forth inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d).
Exhibit 2123 (Gibbons Publication)	Hearsay (FRE 801, 802, 803): The exhibit sets forth inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d).
Exhibit 2124 (Nelsen Publication)	Hearsay (FRE 801, 802, 803): The exhibit sets forth inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d).
Exhibit 2125 (Scherer Publication)	Hearsay (FRE 801, 802, 803): The exhibit sets forth inadmissible hearsay offered for the truth of the matters asserted therein and is not subject to any exceptions. Furthermore, the exhibit does not contain any non-hearsay statements under Fed. R. Evid. 801(d).

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