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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF DELAWARE
3
4 UCB, INC., UCB PHARMA :
5 GMBH, RESEARCH :
6 CORPORATION : C. A. No. 13-1206
7 TECHNOLOGIES, INC. And : (LPS)
8 HARRIS FRC CORPORATION, :
9 Plaintiffs, : CONSOLIDATED
10 vs. :
11 ACCORD HEALTHCARE, :
12 INC., et al., :
13 Defendants. :
14
15
16 VIDEOTAPED DEPOSITION OF JOHN ANDREW LEHNER,
17 REPRESENTATIVE OF UNIVERSITY OF HOUSTON
18
19 Called as a witness by the Defendants Mylan
20 Pharmaceuticals, Inc., and Mylan, Inc., taken before
21 Peggy Ann Antone, a Certified Shorthand Reporter in and
22 for the State of Texas, on December 5, 2014, beginning
23 at 10:12 a.m., at the offices of Winstead, P.C., 600
24 Travis Street, Suite 1100, Houston, Texas, pursuant to
25 the Federal Rules of Civil Procedure.

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1 PROCEEDINGS

2 MS. LI: Pursuant to the rules.

3 MR. STARR: I have no stipulations.

4 THE VIDEOGRAPHER: Stand by. This is the

5 videotaped deposition of Mr. John Lehner. Today is

6 Friday, December the 5th, 2014. The time is 10:12 a.m.

7 We are on the record.

8 THE REPORTER: Would you like for me to

9 state all of the appearances or would you like to waive

10 30(b)(5) and go forward in swearing the witness?

11 MS. LI: We waive 30(b)(5).

12 JOHN ANDREW LEHNER,

13 having been first duly sworn, testified as follows:

14 EXAMINATION

15 QUESTIONS BY MS. LI:

16 Q. Mr. Lehner, my name is Youngdan Li. I

17 represent one of --

18 MR. HERMAN: Could you speak up a little,

19 please.

20 MS. LI: Of course.

21 Q. (BY MS. LI) Mr. Lehner, my name is Youngdan

22 Li, I represent two of the defendants in this case,

23 Mylan Pharmaceuticals, Inc., and Mylan, Inc.

24 MS. LI: And at this point do the other

25 co-defendants want to announce themselves on the record?

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1 Okay. Well, I'll just start, then.
2 Q. (BY MS. LI) So thank you so much for being
3 here. Could you state your full name for the record?
4 **A. John Andrew Lehner.**
5 Q. Who is your current employer?
6 **A. University of Houston.**
7 Q. Are you represented by counsel today?
8 **A. Ms. Shapiro and Mr. Starr.**
9 Q. Who are sitting next to you?
10 **A. Yes.**
11 Q. Okay. Thank you. Have you ever had your
12 deposition taken before?
13 **A. Many years ago.**
14 Q. Many years ago? Do you recall when,
15 approximately?
16 **A. It would have been some 30 years ago.**
17 Q. 30 years ago.
18 What type of case was it?
19 **A. It was land use litigation.**
20 Q. I'm sorry, what?
21 **A. Land use litigation.**
22 Q. Okay. So before we start, I just want to go
23 over some logistics, ground rules, in light of the fact
24 that it's been a few years or 30 years, between the last
25 deposition you had. And so basically, I'll be asking

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1 you questions and other counsel here may be asking you
2 questions, and do you understand that the oath that you
3 took previously is an oath, the same oath that you would
4 have taken if you were testifying in court?
5 **A. Yes.**
6 Q. Okay. And is there any reason that prevents
7 you from giving full and truthful testimony today?
8 **A. No.**
9 Q. Are you on any medication that would affect
10 your response?
11 **A. No.**
12 Q. Okay. And do you understand that your counsel,
13 you know, whether it be Mr. Starr or Ms. Ruth, they may
14 be making objections, but just because they make
15 objections does not mean that you don't answer a
16 question, unless they specifically instruct you not to
17 answer a question.
18 **A. Yes. I understand.**
19 Q. Okay. And I'm sure you know that your answers
20 are being recorded by the court reporter, and so just to
21 make things easier for her, let's try our best not to
22 speak over each other, and to give audible questions and
23 responses.
24 **A. All right.**
25 Q. Thank you. So at this time, I would like to

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1 mark as [Exhibit 1](#) Defendant's Notice of Deposition to
2 the University of Houston as well as the attached
3 document and deposition notice.
4 ([Exhibit 1](#) was marked.)
5 **MR. HERMAN:** Counsel, do you have a copy
6 for me?
7 **MS. LI:** I do have a copy for you.
8 **MR. HERMAN:** Thank you.
9 **MS. LI:** But it's far from where I am.
10 **MS. SHAPIRO:** You can pass it down.
11 **MS. LI:** Okay. Thank you.
12 **MR. HERMAN:** I'll get a little exercise.
13 Thank you.
14 Q. (BY MS. LI) All right. Mr. Lehner, have you
15 reviewed this prior to today?
16 **A. Yes.**
17 Q. Do you understand that you're a 30(b)(6)
18 designated for the University of Houston?
19 **MR. STARR:** Objection. Vague. Form.
20 **A. I'm sorry. Ask me again, please.**
21 Q. (BY MS. LI) Do you understand that you are a
22 30(b)(6) designee for the University of Houston?
23 **A. I -- I don't know what that means.**
24 Q. That's okay. Let me rephrase it.
25 Do you understand that you're representing

Page 16

1 the University of Houston?
2 **A. Yes, I do.**
3 Q. Okay. Great. And do you understand that the
4 answers you will be giving are the answers of the
5 University of Houston?
6 **A. Yes.**
7 Q. Okay. Can you flip to -- let me make sure I
8 have the right page.
9 It's not paginated, but could you find and
10 flip to Exhibit A? It's about page 9.
11 **A. Yes, I see Exhibit A.**
12 Q. Yeah. And do you see topics 1 through 9?
13 **A. Yes.**
14 Q. Have you reviewed these topics before?
15 **A. Yes.**
16 Q. And do you understand that you are representing
17 the University of Houston today here for topics 1
18 through 9?
19 **A. Yes.**
20 Q. Okay. And is it your understanding that the
21 University of Houston has produced documents in response
22 to this subpoena?
23 **A. Yes.**
24 Q. Have you reviewed those documents?
25 **A. Yes.**

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1 Q. Are you familiar with them?
2 A. Yes.
3 Q. Okay. May I also ask you to flip to the page
4 right after [Exhibit 1](#), so that's about page 6.
5 MR. STARR: Sorry. [Exhibit 1](#)?
6 MS. LI: So it's the page right after
7 [Exhibit 1](#).
8 MR. STARR: Ah. Sorry.
9 MS. LI: No problem.
10 MR. STARR: Exhibit A? There's a 01?
11 MS. LI: It's a bit confusing, but there's
12 actually an [Exhibit 1](#) after the notice of depo, and
13 then --
14 MR. STARR: Sorry.
15 MS. LI: -- right after that there is
16 basically the first page of the Form 88A.
17 MR. STARR: Thank you, counsel.
18 Q. (BY MS. LI) So, have you found it?
19 A. [Exhibit 1](#)?
20 Q. Exactly. Perfect. Okay. Do you see where it
21 says, "Plaintiff," at the very top?
22 A. Yes.
23 Q. And do you see that the plaintiffs listed are
24 UCB, Inc., UCB Biopharma SPRL, Research Corporation
25 Technologies, Inc., as well as Harris FRC Corporation?

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1 A. Yes.
2 Q. Before today's deposition, have you spoken to
3 any representative of any of those companies?
4 A. No.
5 Q. What about any attorney for any of those
6 companies?
7 A. No.
8 Q. Okay. Who did you speak to in preparation for
9 this deposition?
10 A. Ms. Shapiro and Mr. Starr.
11 Q. Uh-huh. Anyone else?
12 A. I spoke to a number of employees of the
13 university libraries.
14 Q. Uh-huh. Do you recall the names of those
15 employees?
16 A. Yes.
17 Q. Can you please list them?
18 A. I spoke to Linda Thompson.
19 Q. Uh-huh.
20 A. Senior associate dean of libraries.
21 I spoke to Richard Guajardo, who is the
22 head of resource discovery systems for the university
23 libraries.
24 I spoke to Annie Wu, who is the head of
25 metadata and bibliographic services for the university

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1 libraries.
2 I spoke to Pat Bozeman, who is the head of
3 special collections for the university libraries.
4 I spoke to John D. Hall, who is a senior
5 cataloger in the university libraries.
6 Q. Thank you. I apologize. I'm a little bit
7 under the weather, so I'll be coughing a little bit, but
8 I think I'm not very infectious at this point.
9 With regard to the individuals that you
10 just named, I just want to briefly go over the reason
11 why you spoke to each person.
12 So can we start with Linda Thompson?
13 A. You want to know the reason I spoke to
14 Ms. Thompson?
15 Q. Yes, the -- you know, high-level reason.
16 A. To get information about the cataloguing
17 systems that were in place in 1988.
18 Q. Uh-huh. And what about -- was it Richard --
19 A. Guajardo.
20 Q. Guajardo?
21 A. I spoke to him for the same reason.
22 Q. Uh-huh. So it seems that all the individuals
23 were employees of the University of Houston back in
24 1987; is that correct?
25 A. Not all of the employees I've given you.

Page 20

1 Q. Which ones?
2 A. Richard Guajardo was, Pat Bozeman was.
3 Q. Uh-huh.
4 A. And John D. Hall --
5 Q. Okay.
6 A. -- was in 1988.
7 Q. Okay. So what was the reason for speaking with
8 Ms. Annie Wu?
9 A. To help me make sure that I understood a
10 catalog record.
11 Q. Uh-huh. And are you talking about catalog
12 record maintained just as paper or as an electronic
13 record?
14 A. We discussed a paper copy.
15 Q. Okay. What about Mr. Pat Bozeman? Why did you
16 speak to him?
17 A. It's actually Ms. Pat Bozeman.
18 Q. Oh, I'm sorry. Bozeman.
19 A. And I spoke to Ms. Bozeman about the handling
20 of theses and dissertations in the special collections
21 unit of the libraries.
22 Q. And what about Mr. John D. Hall? Why did you
23 speak to him?
24 A. To get information about cataloguing procedures
25 in 1988.

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