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 1                          - VOLUME E -

 2              IN THE UNITED STATES DISTRICT COURT

 3              IN AND FOR THE DISTRICT OF DELAWARE

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     OSI PHARMACEUTICALS, INC.,     :   CIVIL ACTION
 6   PFIZER INC. and GENENTECH,     :
     INC.,                          :
 7                                  :
                   Plaintiffs,      :
 8                                  :
         vs.                        :
 9                                  :
     TEVA PHARMACEUTICALS USA,      :
10   INC. And MYLAN                 :
     PHARMACEUTICALS, INC.,         :
11                                  :
                   Defendants.   :   NO. 09-185 (SLR)
12

13                            - - -

14                              Wilmington, Delaware
                                Friday, March 18, 2011
15                              9:33 o'clock, a.m.

16                            - - -

17   BEFORE:  HONORABLE SUE L. ROBINSON, U.S.D.C.J.

18                            - - -

19   APPEARANCES:

20           MORRIS NICHOLS ARSHT & TUNNELL
             BY:  JACK B. BLUMENFELD, ESQ.
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22                    -and-

23
                              Valerie J. Gunning
24                            Official Court Reporters

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 1    APPEARANCES (Continued):

 2
                KAYE SCHOLER LLP
 3              BY:  LEORA BEN-AMI, ESQ. and
                     BENJAMIN C. HSING, ESQ. and
 4                   DANIEL BOGLIOLI, ESQ.
                     SAPNA PALLA, ESQ.
 5                   (New York, New York)

 6

 7                   Counsel for Plaintiffs

 8

 9
                PHILLIPS, GOLDMAN & SPENCE, P.A.
10              BY:  JOHN C. PHILLIPS, JR., ESQ.

11
                          -and-
12

13              WILEY REIN LLP
                BY:  JAMES H. WALLACE, JR., ESQ.,
14                   MARK A. PACELLA, ESQ.,
                     ADRIENNE JOHNSON, ESQ. and
15                   MATTHEW J. DOWD, ESQ.
                     (Washington, D.C.)

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17                   Counsel for Defendant
                     Mylan Pharmaceuticals Inc.

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1   P R O C E E D I N G S

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3   (Proceedings commenced in the courtroom,

4   beginning at 9:33 a.m.)

5

6   THE COURT: All right. Mr. Wallace?

7   MR. WALLACE: Good morning, your Honor. As your

8   Honor recalls, at the close yesterday, I moved in the

9   admission of DTX-804, which I used with Dr. Sandler but

10   failed to move at the time, and plaintiffs wanted to find

11   it, look at it overnight, and I now move.

12   THE COURT: I take it there's no objection?

13   MR. HSING: Your Honor, the copy, the version

14   they have is only a partial part of the book. It has the

15   program schedule. Then he includes the abstract with the

16   different sections. So we object on that ground. If

17   they're willing to copy the whole book --

18   THE COURT: Why in the world would I want a

19   whole book? Do you really think I'm going to read a whole

20   book? Do you really think you're going to cite to more than

21   that part?

22   MR. HSING: Well, your Honor, if I may, then,

23   could I just mention where the immediate and next section

24   starts on this -- in this book and where the lung section

25   starts in this book? I will read that into the record and

1   then we'll be satisfied.

2   MR. WALLACE: Your Honor, I would be happy to

3   cut my proffer down to three pages. The whole idea was, was

4   this a special program, or was this a mere head and neck

5   thing.

6   All I'm interested in, your Honor, is the type

7   of page, the program committee page, and the page that has

8   the program for this special EGFR receptor. Those are the

9   pages I used with Dr. Sandler. They're the only pages that

10 are pertinent to my point. This was a special EGFR point.

11   The contents of the individual abstracts have

12 been, of the ones that are pertinent, have been in evidence,

13 discussed ad nauseam, and while either side would want a

14 whole book full of abstracts, I don't know. I will be happy

15 to stipulate whatever pages Mr. Hsing --

16   THE COURT: Well, if I can see it -- I mean, is

17 your point covered by the index and the pages so we know

18 where in the book the abstract is?

19   MR. HSING: No. That's the issue. The program

20 section that is part of that exhibit that's being proffered

21 804 does not have the pagination, for example, where the

22 head to neck cancer section starts, where the lung cancer

23 section starts. So that's the reason we're objecting.

24   MR. WALLACE: Your Honor, if Mr. Hsing will just

25 read in those pages, I will stipulate.

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 1                 MR. HSING:  That's fine.

 2                 THE COURT:  All right.

 3                 MR. HSING:  So I would just want to read for the

 4     record that the head and neck section where the abstract

 5     starts, Page 387a and ends at Page 410a, and then the lung

 6     cancer section starts at Page 458a and ends at Page 532.

 7                 THE COURT:  And this is where?  And this DTX?

 8                 MR. HSING:  DTX-804.

 9                 MR. WALLACE:  That's the part of 804 that's not

10     in my exhibit, but I will stipulate to those page numbers.

11     With counsel's Honor permission, I will reduce 804 to the

12     cover page, the program committee page, which is Roman No.

13     VI, and the special EGFR targeting program, which is page

14     39.  So 804 will now be those three pages.

15                 MR. HSING:  Your Honor, that's fine.

16                 THE COURT:  All right.  Great.  Thank you very

17     much, counsel.

18                 (DTX-804 was received into evidence.)

19                 MR. PACELLA:  Your Honor, one additional matter

20     that we'd like to raise.

21                 THE COURT:  Yes?

22                 MR. PACELLA:  Now that the evidence has

23     substantially been presented and you've heard a lot of

24     testimony about polarity, non-polarity, lipophilicity,

25     hydrophobic, these terms, we believe that, at this point in
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