1    UNITED STATES PATENT AND TRADEMARK OFFICE

2    BEFORE THE PATENT TRIAL AND APPEAL BOARD

3

4

5  ARGENTUM PHARMACEUTICALS LLC      )

                                     )

6            Petitioner,             )

                                     )

7  vs.                               ) No. IPR2017-01053

                                     )

8  ALCON RESEARCH, LTD.,             )

                                     )

9            Patent owner.           )

10

11

12          DEPOSITION OF ERNING XIZ, Ph.D.

13               May 11, 2018

14            Chicago, Illinois 60654

15                 9:00 a.m.

16

17

18

19

20

21  REPORTED BY:

    JO ANN LOSOYA

22

23

24

25

1   PRESENT:

2      Appeared on behalf of Defendants.
        FOLEY & LARDNER

3         321 North Clark Street, Suite 2800
        Chicago, Illinois 60654

4         (312) 832-4378
        BY: MICHAEL R. HOUSTON, ESQ.

5            mhouston@foley.com

6

     Appeared on behalf of the patent owner.

7         WILLIAMS & CONNOLLY
        725 Twelfth Street NW

8         Washington, DC 20005
        (202) 434-5097

9         BY: ALEXANDER S. ZOLAN, ESQ.
           azolan@wc.com

10          DAVID M. KRINSKY, ESQ.
          dkrinsky@wc.com

11

12

13

14   REPORTED BY:  JO ANN LOSOYA

15   LICENSE #:  084-002437

16

17

18

19

20

21

22

23

24

25

```
 1                      EXAMINATION

 2    Witness                            Page    Line

 3    ERNING XIZ, Ph.D.

 4     By Mr. Zolan                        4       7

 5     By Mr. Houston                    107      21

 6

 7                  ***************

 8               E X H I B I T S

 9    EXHIBIT       DESCRIPTION                    PAGE

10    EXHIBIT 1093 Declaration                        5

11    EXHIBIT 2122 Winslow article                   16

12    EXHIBIT 1002 Original declaration              20

13    EXHIBIT 1007 Schneider reference               58

14    EXHIBIT 1003 Xia patent                        72

15    EXHIBIT 104  Chowhan reference                 76

16    EXHIBIT 2121 Deposition transcript             85

17    EXHIBIT 1042 Systane Free                      94

18    EXHIBIT 1110 Systane Free screenshot           95

19    EXHIBIT 1111 Systane Free screenshot           95

20    EXHIBIT 1041 Systane Free screenshot          127

21

22

23

24

25
```

```
 1                        (Witness sworn at 9:04 a.m.)

 2    WHEREUPON:

 3                   ERNING XIZ, Ph.D.,

 4    called as a witness herein, having been first duly

 5    sworn, was examined and testified as follows:

 6                 E X A M I N A T I O N

 7    BY MR. ZOLAN:

 8         Q.    Good morning, Dr. Xia.

 9         A.    Good morning.

10         Q.    It's good to see you again.

11         A.    Same here.

12         Q.    How does your own experience inform your

13    opinions about how the POSA would understand prior

14    art?

15              MR. HOUSTON:  Objection, form.

16              THE WITNESS:  Can you repeat that?

17    BY MR. ZOLAN:

18         Q.    Yeah.  How does your own experience

19    inform your opinions about how the POSA would

20    understand prior art?

21              MR. HOUSTON:  Same objection.

22    BY THE WITNESS:

23         A.    You're talking about how the POSA

24    understands the prior art?

25         Q.    Well, what I'm asking is how does your
```

1    experience, you, as Dr. Xia, who is the expert

2    witness in this case, how does your personal

3    experience inform your opinions about how the person

4    of ordinary skill would understand prior art?

5         A.    By definition, the prior art, the date of

6    the publications should be preceding the publication

7    filing date of the patent's applications.  So

8    everything, every single publications before that

9    date can be considered as prior art.

10        Q.    Okay.  I guess I'm not asking what makes

11   something prior art.  What I'm asking is when you

12   are reading a reference and you are opining about

13   how that reference would inform the person of

14   ordinary skill, how does your personal experience

15   inform those opinions?

16        A.    My base is based on the related

17   information from prior arts, not just everything I

18   read.  If I read reference involves zinc, for

19   example, does not mean I will use that publications.

20        Q.    Let me make it a little more concrete.

21   I'm going to hand you what has been marked as

22   Exhibit 1093.

23                      (Deposition Exhibit 1093 was

24                      marked for identification.)

25

# DOCKET ALARM

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

### E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase®
Smarter legal research.