

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3 EDWARDS LIFESCIENCES)
CORP., EDWARDS)
4 LIFESCIENCES LLC, AND)
EDWARDS LIFESCIENCES AG)
5)
Petitioners,)
6) CASE IPR
v.) 2017-00060
7)
BOSTON SCIENTIFIC)
8 SCIMED, INC.,)
9)
Patent Owner)

10

11 Deposition of NIGEL P. BULLER, M.D.,
12 taken pursuant to notice, at the law offices
13 of Morris Nichols Arsht & Tunnell, LLP 1201
14 Market Street, Wilmington, Delaware, beginning
15 at 8:40 a.m., on Thursday, June 15, 2017,
16 before Terry Barbano Burke, RMR-CRR and Notary
17 Public.

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Edwards Lifesciences v. Boston Scientific Scimed
IPR2017-01293, U.S. Patent 8,992,608
Exhibit 2006

1 APPEARANCES:

2 BRIAN P. EGAN, ESQUIRE
3 MORRIS NICHOLS ARSHT & TUNNELL LLP
4 1201 North Market Street
5 Wilmington, Delaware 19801

6 -and-

7 GREGORY S. CORDREY, ESQUIRE
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11 For the Petitioner

12 MARC A. COHN, ESQUIRE
13 EDWARD HAN, ESQUIRE
14 ARNOLD & PORTER/KAYE SCHOLER
15 601 Massachusetts Avenue, NW
16 Washington, DC 20001-3743
17 For the Patent Owner

18 ALSO PRESENT:

19 VICTORIA BROWN, Legal Intern

20 - - -

21 NIGEL P. BULLER, M.D.,

22 the deponent herein, having first been
23 duly sworn on oath, was examined and
24 testified as follows:

BY MR. COHN:

25 Q. Good morning, Dr. Buller.

26 A. Good morning.

27 Q. You submitted an expert report in this
28 inter partes review proceeding; is that right?

29 A. Yes.

30 Q. An expert declaration?

1 A. That's why I was hesitating. Yes, I
2 think it was a declaration.

3 Q. And you signed that declaration under
4 oath to give the truth and nothing but the
5 truth so help you God in that declaration; is
6 that right?

7 A. Yes, correct.

8 Q. Now, you also gave testimony recently
9 in a United Kingdom litigation about the
10 European counterpart to the patent that is at
11 issue in this inter partes proceeding; is that
12 right?

13 MR. EGAN: Objection.
14 Relevance.

15 THE WITNESS: Earlier this year.

16 BY MR. COHN:

17 Q. That was January this year; correct?

18 A. Correct.

19 Q. And in that proceeding, you swore to
20 tell the truth so help you God, is that right,
21 when you testified in court?

22 A. Yes.

23 Q. And the oath that you took in that
24 proceeding, you take that oath as seriously as

1 you took the oath that you just gave this
2 morning; is that right?

3 A. Of course, yes.

4 Q. And you stand by your testimony in the
5 UK in January?

6 A. I do.

7 Q. Is there anything that you recall
8 saying in that proceeding that you want to
9 correct or clarify right now?

10 A. Not as I sit here. I mean I may have
11 misspoken. I hope I would have corrected it
12 at the time if I said the wrong words, because
13 I do remember something got mixed up.

14 But, no, essentially I'm
15 sticking completely behind the testimony I
16 gave. But wrong words and things, I might
17 have misspoken.

18 Q. How many depositions have you given in
19 the last five years?

20 A. I honestly don't know. Half a dozen.
21 Half a dozen, I would guess. There were no
22 depositions for the UK case. The only
23 depositions I've given are in the US.

24 Q. When you say "in the US," you mean for

1 proceedings in the United States?

2 A. I mean both in the United States and
3 court procedures. I haven't done any
4 depositions outside the United States, but,
5 yes, being full proceedings in the United
6 States.

7 Q. How many of those depositions were in
8 your capacity as an expert for Edwards Life
9 Sciences?

10 A. Several of them. In the last five
11 years, I believe I've only acted for two
12 companies. One is CR Bard. And there was a
13 trial earlier this year against Gore, and for
14 that I gave -- I can't remember if it was one
15 or two depositions, but I certainly did a
16 deposition. And then I gave live testimony
17 here in Delaware earlier this year.

18 And the other ones are, to the
19 best of my recollection, all for Edwards.

20 Q. What was the subject matter? And let
21 me just preface this by saying I don't want
22 you to reveal any confidential information of
23 Bard or the parties in that case, but what was
24 the general subject matter of the testimony

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