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Transcript of Lutz Riechmann

Date: February 14, 2018

Case: Celltrion, Inc. -v- Genentech, Inc. (PTAB)

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Transcript of Lutz Riechmann
Conducted on February 14, 2018

1 (1 to 4)

<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE FOR THE PATENT TRIAL AND APPEAL BOARD 3 -----x 4 CELLTRION, INC., : 5 Petitioner, : 6 v. : Case IPR 2017-01373 7 GENENTECH, INC., : Case IPR 2017-01374 8 Patent Owner. : U.S. Patent 6,407,213 9 -----x 10 11 Deposition of LUTZ RIECHMANN 12 New York, New York 13 Wednesday, February 14, 2018 14 9:03 a.m. 15 16 17 18 19 Job No.: 174286 20 Pages: 1 - 357 21 Reported By: Nancy Mahoney, CCR/RPR 22</p>	<p>1 A P P E A R A N C E S 2 ON BEHALF OF PETITIONER CELLTRION: 3 ROBERT V. CERWINSKI, ESQUIRE 4 rcerwinski@goodwinlaw.com 5 GOODWIN PROCTOR LLP 6 The New York Times Building 7 620 Eighth Avenue 8 New York, New York 10018 9 212.459.7240 10 - and - 11 SARAH J. FISCHER, ESQUIRE 12 sfischer@goodwinlaw.com 13 100 Northern Avenue 14 Boston, Massachusetts 02210 15 617.570.3908 16 17 18 19 20 21 22</p>
<p>1 Deposition of LUTZ RIECHMANN, held at the 2 offices of: 3 4 5 Goodwin Procter LLP 6 The New York Times Building 7 620 Eighth Avenue 8 New York, New York 10018 9 212.813.8800 10 11 12 13 14 15 Pursuant to agreement, before Nancy Mahoney, 16 Notary Public in and for the state of New York. 17 18 19 20 21 22</p>	<p>1 A P P E A R A N C E S C O N T I N U E D : 2 3 ON BEHALF OF PATENT OWNER GENENTECH: 4 ROBERT J. GUNTHER, ESQUIRE 5 robert.gunther@wilmerhale.com 6 WILMER CUTLER PICKERING HALE & DORR LLP 7 7 World Trade Center 8 250 Greenwich Street 9 New York, New York 10007 10 212.230.8850 11 - and - 12 ANDREW H. LE, ESQUIRE 13 andrew.le@wilmerhale.com 14 WILMER CUTLER PICKERING HALE & DORR LLP 15 950 Page Mill Road 16 Palo Alto, California 93404 17 18 19 ALSO PRESENT: 20 21 Charlie Bowman, Videographer 22</p>

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<p style="text-align: right;">9</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Here begins disk number</p> <p>3 one of the videotaped deposition of Lutz Riechmann</p> <p>4 in the matter of Celltrion, Inc. v. Genentech,</p> <p>5 Inc., in the United States Patent and Trademark</p> <p>6 Office before the Patent Trial and Appeal Board,</p> <p>7 Case No. IPR 2017-01373 and 01374.</p> <p>8 Today's date is February 14th, 2018; the</p> <p>9 time is approximately 9:03 a.m. The videographer</p> <p>10 today is Charlie Bowman representing Planet Depos.</p> <p>11 This video deposition is taking place in New York,</p> <p>12 New York.</p> <p>13 Would counsel please voice-identify</p> <p>14 yourselves for the record.</p> <p>15 MR. GUNTHER: So for the patent owner</p> <p>16 Genentech, Bob Gunther and Andrew Le of</p> <p>17 WilmerHale.</p> <p>18 MR. CERWINSKI: For the petitioner</p> <p>19 Celltrion, Rob Cerwinski and Sarah Fischer of</p> <p>20 Goodwin Procter.</p> <p>21 THE VIDEOGRAPHER: The court reporter</p> <p>22 today is Nancy representing Planet Depos. Would</p>	<p style="text-align: right;">11</p> <p>1 the same what I'm doing here.</p> <p>2 Q Okay.</p> <p>3 A It may not be. But the last declaration</p> <p>4 which I wrote, that would be the sort of thing</p> <p>5 you're after, that was maybe November last year.</p> <p>6 Q And what matter was that in?</p> <p>7 MR. CERWINSKI: I caution the witness, if</p> <p>8 this is a confidential matter, non-public, please</p> <p>9 let me know.</p> <p>10 A It was for ZSP in Munich, and I don't</p> <p>11 really remember which antibody that was, but it</p> <p>12 was in relation to an antibody.</p> <p>13 Q It was in relation to an antibody. Was it</p> <p>14 in a -- was it in a court proceeding or a patent</p> <p>15 office proceeding, do you know?</p> <p>16 A Patent office -- so they were opposing</p> <p>17 another patent.</p> <p>18 Q And were you -- who were you acting as an</p> <p>19 expert for in that matter?</p> <p>20 A I think Sanofi.</p> <p>21 Q Sanofi, okay.</p> <p>22 A No, actually, I can't recall. I can't</p>
<p style="text-align: right;">10</p> <p>1 the court reporter please swear in the witness.</p> <p>2 LUTZ RIECHMANN,</p> <p>3 after having been first duly sworn or affirmed to</p> <p>4 testify to the truth, was examined and</p> <p>5 testified as follows:</p> <p>6 EXAMINATION BY COUNSEL FOR THE</p> <p>7 PATENT OWNER GENENTECH BY ROBERT GUNTHER:</p> <p>8 Q Good morning, Dr. Riechmann.</p> <p>9 A Good morning.</p> <p>10 Q Have you ever had your deposition taken</p> <p>11 before?</p> <p>12 A No.</p> <p>13 Q So this is the first time?</p> <p>14 A Right.</p> <p>15 Q And have you ever acted as an expert</p> <p>16 witness in any type of litigation proceeding</p> <p>17 before?</p> <p>18 A Yes.</p> <p>19 Q Can you tell me the last time that you did</p> <p>20 act in that capacity?</p> <p>21 A I did -- I have done -- I did that in</p> <p>22 Europe, so -- and so I don't know exactly it is</p>	<p style="text-align: right;">12</p> <p>1 recall, because that's not the part I really know</p> <p>2 about. Okay, I would know if I would read kind of</p> <p>3 the head of --</p> <p>4 Q Sure, sure.</p> <p>5 A -- but I forget which company that was</p> <p>6 for.</p> <p>7 Q And were you -- were you working with --</p> <p>8 as an expert with the company that was opposing</p> <p>9 the patent?</p> <p>10 A Yes.</p> <p>11 Q And who was the patent owner in that</p> <p>12 matter, do you know?</p> <p>13 A I've got several in my head, and I don't</p> <p>14 want to speculate.</p> <p>15 Q How many times have you acted as an expert</p> <p>16 in European patent matters?</p> <p>17 A I don't -- I'm guessing I may have written</p> <p>18 about ten declarations or so, maybe a couple more.</p> <p>19 Q Okay. And how many times of those</p> <p>20 approximately ten engagements as an expert have</p> <p>21 you been opposing a patent?</p> <p>22 A I can't -- I would have --</p>

<p style="text-align: right;">13</p> <p>1 Q You can't give me any estimate on that?</p> <p>2 A I think it was more opposing than the</p> <p>3 other way around, but I think that's as far as I</p> <p>4 can --</p> <p>5 Q Can you think of any instances in which</p> <p>6 you were defending the patent?</p> <p>7 A I -- there are a number where I don't</p> <p>8 remember. It would have been one of those, yes,</p> <p>9 the ones which come to mind I were opposing.</p> <p>10 Q The ones that you recall now -- I just</p> <p>11 want to make sure I understand under answer. The</p> <p>12 ones that you recall now are instances in which</p> <p>13 you opposed the patent?</p> <p>14 A Yeah.</p> <p>15 Q Okay. As you sit here today, can you</p> <p>16 think of any instances in which you were defending</p> <p>17 a patent?</p> <p>18 A How long time do you give me to remember?</p> <p>19 Q Listen, I understand, you know, we're</p> <p>20 all -- you're about my vintage in age I think, and</p> <p>21 we're all kind of prisoners of our memory here, so</p> <p>22 I'm just asking you to do the best you can.</p>	<p style="text-align: right;">15</p> <p>1 one hasn't written a declaration yet but one is</p> <p>2 still in the process -- or one was just in the</p> <p>3 process of kind of advising and consulting?</p> <p>4 Q Okay, that's a fair question, and let me</p> <p>5 see if I can be a little more precise.</p> <p>6 Have you acted as an expert in a U.S.</p> <p>7 proceeding in which you either testified or</p> <p>8 submitted some type of declaration or report in</p> <p>9 writing?</p> <p>10 A Not that I remember.</p> <p>11 Q Have you -- right now I'm just asking you</p> <p>12 for a yes or no answer to this question. Can you</p> <p>13 recall any instance in a U.S. proceeding in which</p> <p>14 you were retained as either an expert or</p> <p>15 consultant but had not yet gotten to the point of</p> <p>16 either testifying or preparing --</p> <p>17 A Yes.</p> <p>18 Q -- a report? Okay. Is that -- so now let</p> <p>19 me ask this question with respect to that.</p> <p>20 Is your -- was your retention in that</p> <p>21 case, is that something that was publicly known or</p> <p>22 was it confidential?</p>
<p style="text-align: right;">14</p> <p>1 A I'm pretty sure I wrote something in</p> <p>2 defense of the MRC patents, but I couldn't give</p> <p>3 you details.</p> <p>4 Q Okay. And that would have been some</p> <p>5 patents that were -- that came out of Dr. Winter's</p> <p>6 laboratory?</p> <p>7 A Yes.</p> <p>8 Q Okay. And can you give me -- do you</p> <p>9 remember anything about that in terms of what the</p> <p>10 patents related to or the time frame, for example?</p> <p>11 A Don't remember what they were related to.</p> <p>12 It was in the '00 or '90s, end of '90s, beginning</p> <p>13 of '00s.</p> <p>14 Q But it's fair to say of the ten --</p> <p>15 approximately ten proceedings that you can recall</p> <p>16 in Europe in which you acted as an expert, is it</p> <p>17 fair to say that most of them -- in most of them</p> <p>18 you were opposing the patent?</p> <p>19 A I'm not sure. Could be.</p> <p>20 Q Okay. Have you acted as an expert in any</p> <p>21 proceedings in the United States prior to this?</p> <p>22 A Does it already count being an expert if</p>	<p style="text-align: right;">16</p> <p>1 A I don't know.</p> <p>2 Q Do you feel comfortable telling me any of</p> <p>3 the details about that?</p> <p>4 MR. CERWINSKI: And so again, I caution</p> <p>5 you, if there's any doubt as to whether this is</p> <p>6 confidential or not, you know, we can address it</p> <p>7 at a break, right? But I don't want you to reveal</p> <p>8 any information that's subject to a</p> <p>9 confidentiality agreement or if you're in doubt,</p> <p>10 to answer that question.</p> <p>11 A That was kind of basically what I was</p> <p>12 going to say. I don't remember the wordings of</p> <p>13 what I signed, so I'm -- I'm not feeling happy to</p> <p>14 possibly tell you something I'm not allowed to</p> <p>15 tell you.</p> <p>16 Q And okay, I want to be careful about that</p> <p>17 too. But let me ask you this: In terms of being</p> <p>18 retained for some type of U.S. proceeding, did</p> <p>19 that happen once or more than once?</p> <p>20 A More than once.</p> <p>21 Q More than once, all right. And in each --</p> <p>22 A Although I'm mixing up maybe Canada and</p>

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