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Transcript of Jefferson Foote, Ph.D.

Date: June 14, 2018

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

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Pfizer v. Genentech
IPR2017-01488
Genentech Exhibit 2059

Transcript of Jefferson Foote, Ph.D.
Conducted on June 14, 2018

1 (1 to 4)

<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE THE PATENT TRIAL AND APPEAL BOARD 3 -----x 4 PFIZER, INC., AND : 5 SAMSUNG BIOEPIS CO., : Case IPR2017-01488¹ 6 LTD., : U.S. Patent 6,407,213 7 Petitioners, : 8 v. : Case IPR2017-01489¹ 9 GENENTECH, INC., : U.S. Patent 6,407,213 10 Patent Owner. : 11 -----x 12 ¹Case IPR2017-02139 has been joined with this proceeding. 13 ¹Case IPR2017-02140 has been joined with this proceeding. 14 15 Deposition of JEFFERSON FOOTE, PH.D. 16 New York, New York 17 Thursday, June 14, 2018 18 8:55 a.m. 19 20 Job No.: 194199 21 Pages: 1 - 109 22 Reported By: Nancy Mahoney, CCR/RPR</p>	<p>1 A P P E A R A N C E S 2 ON BEHALF OF PETITIONER PFIZER: 3 BENJAMIN LASKY, ESQUIRE 4 benjamin.lasky@kirkland.com 5 KIRKLAND & ELLIS LLP 6 601 Lexington Avenue 7 New York New York 10022 8 212.446.4800 9 10 ON BEHALF OF PETITIONER SAMSUNG BIOEPIS: 11 AMIT THAKORE, ESQUIRE 12 athakore@whitecase.com 13 WHITE & CASE LLP 14 1221 Avenue of the Americas 15 New York, New York 10020 16 212.819.2692 17 18 19 20 21 22</p>
<p>1 Deposition of JEFFERSON FOOTE, PH.D., held at 2 the offices of: 3 4 5 KIRKLAND & ELLIS LLP 6 601 Lexington Avenue 7 New York New York 10022 8 212.446.4800 9 10 11 12 13 14 Pursuant to notice, before Nancy Mahoney, 15 Notary Public in and for the state of New York. 16 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, JR., ESQUIRE 5 robert.gunther@wilmerhale.com 6 WILMER CUTLER PICKERING HALE and DORR LLP 7 7 World Trade Center 8 250 Greenwich Street 9 New York, New York 10007 10 212.230.8830 11 - and - 12 NORA Q.E. PASSAMANECK, ESQUIRE 13 nora.passamaneck@wilmerhale.com 14 1225 17th Street 15 Denver, Colorado 80202 16 720.274.3152 17 18 ALSO PRESENT: 19 Traci Ropp 20 In-House Counsel 21 Genentech 22 Charlie Bowman, Videographer</p>

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<p>1 C O N T E N T S</p> <p>2 EXAMINATION OF JEFFERSON FOOTE, PH.D. PAGE</p> <p>3 By Mr. Gunther 9</p> <p>4</p> <p>5 E X H I B I T S</p> <p>6 PREVIOUSLY MARKED</p> <p>7 (Attached to transcript)</p> <p>8</p> <p>9 JEFFERSON FOOTE, PH.D. PAGE</p> <p>10</p> <p>11 Exhibit 1202 Reply Declaration of 9</p> <p>12 Jefferson Foote, Ph.D.</p> <p>13 Exhibit 1702 Reply Declaration of 10</p> <p>14 Jefferson Foote, Ph.D.</p> <p>15 Exhibit 1069 Article of Lutz Riechmann 21</p> <p>16 in Nature</p> <p>17 Exhibit 1001 U.S. Patent No. 6,407,213 23</p> <p>18 Exhibit 1034 Queen 1989 paper 35</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 E X H I B I T S C O N T I N U E D</p> <p>2 PREVIOUSLY MARKED</p> <p>3 (Attached to transcript)</p> <p>4</p> <p>5 JEFFERSON FOOTE, PH.D. PAGE</p> <p>6</p> <p>7 Exhibit 1062 Chothia and Lesk paper on 84</p> <p>8 Canonical Structures for the</p> <p>9 Hypervariable Regions of</p> <p>10 Immunoglobulins</p> <p>11 Exhibit 1051 Tramontano paper in 86</p> <p>12 Journal of Molecular Biology</p> <p>13 Exhibit 1125 Furey paper in Journal of 97</p> <p>14 Molecular Biology</p> <p>15 Exhibit 1021 Hudziak paper in 98</p> <p>16 Molecular and Cellular Biology</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
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<p>1 E X H I B I T S C O N T I N U E D</p> <p>2 PREVIOUSLY MARKED</p> <p>3 (Attached to transcript)</p> <p>4</p> <p>5 JEFFERSON FOOTE, PH.D. PAGE</p> <p>6</p> <p>7 Exhibit 1050 Paper, Chimeric 39</p> <p>8 Immunoglobulins Specific for p55 Tac</p> <p>9 Protein of the IL-2 Receptor</p> <p>10 Exhibit 1003 Declaration of Jefferson 48</p> <p>11 Foote, Ph.D.</p> <p>12 Exhibit 1071 European Patent 55</p> <p>13 Application No. 0 403 156</p> <p>14 Exhibit 1052 Kabat paper on Sequences 79</p> <p>15 of Proteins of Immunological Interest</p> <p>16 Exhibit 1063 Chothia paper on Domain 83</p> <p>17 Association in Immunoglobulin</p> <p>18 Molecules</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 P R O C E E D I N G S</p> <p>2 THE VIDEOGRAPHER: Here begins disk number</p> <p>3 one of the videotaped deposition of Jefferson</p> <p>4 Foote in the matter of Pfizer, Incorporated and</p> <p>5 Samsung Bioepis Company, Ltd. v. Genentech</p> <p>6 Incorporated, for the United States Patent and</p> <p>7 Trademark Office before the Patent Trial and</p> <p>8 Appeal Board, Case No. IPR2017-01488 and</p> <p>9 IPR2017-01489.</p> <p>10 Today's date is June 14th, 2018; the time</p> <p>11 is approximately 8:55 a.m. The videographer today</p> <p>12 is Charlie Bowman representing Planet Depos. This</p> <p>13 video deposition is taking place in New York, New</p> <p>14 York.</p> <p>15 Would counsel please voice-identify</p> <p>16 yourselves for the record.</p> <p>17 MR. LASKY: Benjamin Lasky from Kirkland &</p> <p>18 Ellis for Petitioner Pfizer and for the witness.</p> <p>19 MR. THAKORE: Amit Thakore from White &</p> <p>20 Case for Petitioner Samsung Bioepis.</p> <p>21 MR. GUNTHER: Bob Gunther and Nora</p> <p>22 Passamaneck from WilmerHale for Patent Owner, and</p>

<p style="text-align: right;">9</p> <p>1 I think -- Traci, could you just -- 2 MS. ROPP: Traci Ropp from Genentech. 3 THE VIDEOGRAPHER: The court reporter is 4 Nancy Mahoney representing Planet Depos. Would 5 the court reporter please swear in the witness. 6 JEFFERSON FOOTE, PH.D., 7 after having been first duly sworn or affirmed to 8 testify to the truth, was examined and 9 testified as follows: 10 EXAMINATION BY COUNSEL FOR THE 11 PATENT OWNER GENENTECH BY ROBERT GUNTHER: 12 Q Dr. Foote, good to see you again. 13 A Good to see you. 14 Q So what -- I think what we'll start -- I'm 15 going to hand you copies of your two reply 16 declarations. 17 A All right. 18 Q So the first one I'm going to give you is 19 from the 01488 IPR which is your reply declaration 20 which is Exhibit 1202. 21 A Okay. 22 (Exhibit 1202 Reply Declaration of</p>	<p style="text-align: right;">11</p> <p>1 Exhibit 1202? 2 A I couldn't think of any. 3 Q Is there anything in Exhibit 1202 that you 4 believe should be corrected or changed? 5 A No. 6 Q Okay. I'm going to ask you pretty much 7 the same questions with respect to the 8 Exhibit 1702, your reply declaration in the 01489 9 IPR. If you turn to page 114, can you confirm 10 that that is your signature? 11 A Yes, that is. 12 Q And, sir, are you aware of any errors or 13 inaccuracies in that document? 14 A No. 15 Q Is there anything in there that you 16 believe needs to be corrected or changed? 17 A Nothing special -- 18 Q Okay. 19 A -- nothing that's incorrect. 20 Q Nothing, I'm sorry, that's -- 21 A Nothing incorrect. 22 Q Okay. If -- so let me ask you this. With</p>
<p style="text-align: right;">10</p> <p>1 Jefferson Foote, Ph.D. previously marked, is 2 attached to the transcript.) 3 Q And why don't I just while I'm at it -- 4 MR. LASKY: May I -- 5 MR. GUNTHER: Oh, yeah, of course. 6 Q And I'll also give you your reply 7 declaration from the 01489 IPR which is Exhibit -- 8 Pfizer Exhibit 1702? 9 (Exhibit 1702 Reply Declaration of 10 Jefferson Foote, Ph.D. previously marked, is 11 attached to the transcript.) 12 Q And starting with the Exhibit 1202, if I 13 can, if you turn to the last page of the 14 declaration, which I think is page 114, can you 15 confirm that's your signature? 16 A That is. 17 Q And then you signed the declaration, the 18 reply declaration, on May 25th, 2018. Is that 19 correct? 20 A That's right. 21 Q Are you -- as you sit here, Dr. Foote, are 22 you aware of any errors or inaccuracies in</p>	<p style="text-align: right;">12</p> <p>1 respect to those two reply declarations that we 2 have in front of you, approximately how many hours 3 did you spend preparing those declarations? 4 A Gosh, tough to estimate. 5 Q Let me -- if this helps -- 6 A 50 hours. 7 Q I was going to say, you had previously 8 testified with respect to your initial 9 declarations you had spent about 50 hours on 10 those. 11 A I think -- 12 Q So go ahead. 13 A I think I may have spent more on the 14 initial declaration, but around 50 -- 15 Q Okay. All right. 16 A -- maybe 60, but in that range. 17 Q Thank you. 18 A Not a hundred. 19 Q Right. And when did you start working on 20 those declarations? 21 A In May. 22 Q May of this year?</p>

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<p style="text-align: right;">13</p> <p>1 A Yeah.</p> <p>2 Q Okay. And did you speak with anyone other</p> <p>3 than counsel for Pfizer about the preparation of</p> <p>4 those declarations?</p> <p>5 A No.</p> <p>6 Q Did you speak with anyone other than</p> <p>7 counsel for Pfizer about any of the opinions that</p> <p>8 are set forth in your two reply declarations that</p> <p>9 are in front of you?</p> <p>10 A No.</p> <p>11 Q Can you describe generally what you did in</p> <p>12 terms of preparing the reply declarations? You're</p> <p>13 obviously responding to Dr. Wilson's declaration,</p> <p>14 correct?</p> <p>15 A That's right.</p> <p>16 Q Prior to reading his declaration, had you</p> <p>17 heard of him?</p> <p>18 A Oh, I've known Dr. Wilson for more than 40</p> <p>19 years.</p> <p>20 Q Okay. And I take it you formed a -- an</p> <p>21 opinion with respect to his reputation as a</p> <p>22 scientist in this area?</p>	<p style="text-align: right;">15</p> <p>1 of the exhibits that he cited in his declarations?</p> <p>2 A Yes.</p> <p>3 Q Okay. Is that correct, you at least</p> <p>4 looked at all of those?</p> <p>5 A I looked at them. I can't recall right</p> <p>6 now exactly which ones I looked at, but I looked</p> <p>7 at them or was aware of them from a previous</p> <p>8 study.</p> <p>9 Q Fair enough. Other than that -- I guess</p> <p>10 what I was trying to get at by an independent</p> <p>11 research -- and maybe it wasn't the best phrased</p> <p>12 question -- but what I'm trying to get at is,</p> <p>13 beyond looking at -- in terms of your preparing</p> <p>14 your reply declarations, beyond looking at</p> <p>15 Dr. Wilson's declaration and the -- declarations</p> <p>16 and the exhibits that he cites to, did you go</p> <p>17 outside that and look at any literature that was</p> <p>18 not cited in his declarations?</p> <p>19 A I don't -- I don't recall doing that.</p> <p>20 Q Were you provided with any materials for</p> <p>21 preparation of your reply declarations, other than</p> <p>22 Dr. Wilson's declarations and his -- and the</p>
<p style="text-align: right;">14</p> <p>1 A Yes.</p> <p>2 MR. LASKY: Objection to the form.</p> <p>3 A Yes.</p> <p>4 Q And what is your opinion?</p> <p>5 A He's -- he's an excellent scientist. Very</p> <p>6 well known in the antibody field.</p> <p>7 Q Okay. And would you agree that he is at</p> <p>8 least a person of ordinary skill in the art in the</p> <p>9 area with respect to the '213 patent?</p> <p>10 A At least, yes.</p> <p>11 Q Okay. And is it fair to say that while</p> <p>12 you respect Dr. Wilson, you disagree with him on</p> <p>13 certain things, but it's an honest disagreement</p> <p>14 among good scientists?</p> <p>15 A That's right.</p> <p>16 Q Now, in preparing your reply declarations,</p> <p>17 did you do any independent research?</p> <p>18 A Independent research? How you do mean?</p> <p>19 Q So, I mean, you obviously read</p> <p>20 Dr. Wilson's declarations, correct?</p> <p>21 A That's correct.</p> <p>22 Q And you read some of the -- probably all</p>	<p style="text-align: right;">16</p> <p>1 exhibits cited in those declarations?</p> <p>2 A Well, I was provided with Dr. Wilson's</p> <p>3 declarations -- declaration, and I was also</p> <p>4 provided with transcripts of testimony by</p> <p>5 Genentech's witnesses.</p> <p>6 Q Okay.</p> <p>7 A And there was a paper by Kolbinger. I'm</p> <p>8 not sure if that came up in the case earlier, but</p> <p>9 my attention was drawn to that.</p> <p>10 Q And the paper by Kolbinger. Is that</p> <p>11 correct?</p> <p>12 A That's right.</p> <p>13 Q C-o-b-i-n-g-e-r?</p> <p>14 A K-o-l.</p> <p>15 Q Not even close. K-o-l...</p> <p>16 A b-i-n-g-e-r.</p> <p>17 Q Okay. Thank you.</p> <p>18 And is Kolbinger discussed in your reply</p> <p>19 declarations?</p> <p>20 A I have to check. I think it may have</p> <p>21 been.</p> <p>22 Q Yeah. Why don't we do this -- and we may</p>

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