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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  
IPR2017-01489  
Genentech Exhibit 2059

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

<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 IPR2017-01488<sup>1</sup> 6 LTD., : U.S. Patent 6,407,213 7 Petitioners, : 8 v. : Case IPR2017-01489<sup>1</sup> 9 GENENTECH, INC., : U.S. Patent 6,407,213 10 Patent Owner. : 11 - - - - -x 12 <sup>1</sup>Case IPR2017-02139 has been joined with this proceeding. 13 <sup>1</sup>Case 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 &amp; 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 &amp; 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 &amp; 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>

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

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

Conducted on June 14, 2018

<p style="text-align: right;">13</p> <p><b>1 A Yeah.</b></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><b>5 A No.</b></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><b>10 A No.</b></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><b>15 A That's right.</b></p> <p>16 Q Prior to reading his declaration, had you</p> <p>17 heard of him?</p> <p><b>18 A Oh, I've known Dr. Wilson for more than 40</b></p> <p><b>19 years.</b></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><b>2 A Yes.</b></p> <p>3 Q Okay. Is that correct, you at least</p> <p>4 looked at all of those?</p> <p><b>5 A I looked at them. I can't recall right</b></p> <p><b>6 now exactly which ones I looked at, but I looked</b></p> <p><b>7 at them or was aware of them from a previous</b></p> <p><b>8 study.</b></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><b>19 A I don't -- I don't recall doing that.</b></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><b>1 A Yes.</b></p> <p>2 MR. LASKY: Objection to the form.</p> <p><b>3 A Yes.</b></p> <p>4 Q And what is your opinion?</p> <p><b>5 A He's -- he's an excellent scientist. Very</b></p> <p><b>6 well known in the antibody field.</b></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><b>10 A At least, yes.</b></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><b>15 A That's right.</b></p> <p>16 Q Now, in preparing your reply declarations,</p> <p>17 did you do any independent research?</p> <p><b>18 A Independent research? How you do mean?</b></p> <p>19 Q So, I mean, you obviously read</p> <p>20 Dr. Wilson's declarations, correct?</p> <p><b>21 A That's correct.</b></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><b>2 A Well, I was provided with Dr. Wilson's</b></p> <p><b>3 declarations -- declaration, and I was also</b></p> <p><b>4 provided with transcripts of testimony by</b></p> <p><b>5 Genentech's witnesses.</b></p> <p>6 Q Okay.</p> <p><b>7 A And there was a paper by Kolbinger. I'm</b></p> <p><b>8 not sure if that came up in the case earlier, but</b></p> <p><b>9 my attention was drawn to that.</b></p> <p>10 Q And the paper by Kolbinger. Is that</p> <p>11 correct?</p> <p><b>12 A That's right.</b></p> <p>13 Q C-o-b-i-n-g-e-r?</p> <p><b>14 A K-o-l.</b></p> <p>15 Q Not even close. K-o-l...</p> <p><b>16 A b-i-n-g-e-r.</b></p> <p>17 Q Okay. Thank you.</p> <p>18 And is Kolbinger discussed in your reply</p> <p>19 declarations?</p> <p><b>20 A I have to check. I think it may have</b></p> <p><b>21 been.</b></p> <p>22 Q Yeah. Why don't we do this -- and we may</p>

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