

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

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

| | 1 | | | 3 |
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| 1 | UNITED STATES PATENT AND TRADEMARK OFFICE | 1 | A P P E A R A N C E S | |
| 2 | BEFORE THE PATENT TRIAL AND APPEAL BOARD | 2 | ON BEHALF OF PETITIONER PFIZER: | |
| 3 | | 3 | BENJAMIN LASKY, ESQUIRE | |
| 4 | PFIZER, INC., AND : | 4 | benjamin.lasky@kirkland.com | |
| 5 | SAMSUNG BIOEPIS CO., : Case IPR2017-01488 | 5 | KIRKLAND & ELLIS LLP | |
| 6 | LTD., : U.S. Patent 6,407,213 | 6 | 601 Lexington Avenue | |
| 7 | Petitioners, : | 7 | New York New York 10022 | |
| 8 | v. : Case IPR2017-01489 | 8 | 212.446.4800 | |
| 9 | GENENTECH, INC., : U.S. Patent 6,407,213 | 9 | | |
| 10 | Patent Owner. : | 10 | ON BEHALF OF PETITIONER SAMSUNG BIOEPIS: | |
| 11 | | 11 | AMIT THAKORE, ESQUIRE | |
| 12 | 1 Case IPR2017-02139 has been joined with this proceeding. | 12 | athakore@whitecase.com | |
| 13 | ¹ Case IPR2017-02140 has been joined with this proceeding. | 13 | WHITE & CASE LLP | |
| 14 | | 14 | 1221 Avenue of the Americas | |
| 15 | Deposition of JEFFERSON FOOTE, PH.D. | 15 | New York, New York 10020 | |
| 16 | New York, New York | 16 | 212.819.2692 | |
| 17 | Thursday, June 14, 2018 | 17 | | |
| 18 | 8:55 a.m. | 18 | | |
| 19 | | 19 | | |
| 20 | Job No.: 194199 | 20 | | |
| 21 | Pages: 1 - 109 | 21 | | |
| 22 | Reported By: Nancy Mahoney, CCR/RPR | 22 | | |
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| 1 | 2 Deposition of JEFFERSON FOOTE, PH.D., held at | 1 | APPEARANCES CONTINUED: | 4 |
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| | Deposition of JEFFERSON FOOTE, PH.D., held at | | A P P E A R A N C E S C O N T I N U E D: ON BEHALF OF PATENT OWNER GENENTECH: | 4 |
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| | | 5 | 7 |
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| 1 | CONTENTS | 5 | / 1 EXHIBITS CONTINUED |
| 2 | EXAMINATION OF JEFFERSON FOOTE, PH.D. | PAGE | 2 PREVIOUSLY MARKED |
| 3 | By Mr. Gunther | 9 | 3 (Attached to transcript) |
| 4 | | 5 | 4 |
| 5 | ЕХНІВІТЅ | | 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 |
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| | | | |
| 2 3 4 | E X H I B I T S C O N T I N U E D PREVIOUSLY MARKED (Attached to transcript) | | 1 P R O C E E D I N G S 2 THE VIDEOGRAPHER: Here begins disk number 3 one of the videotaped deposition of Jefferson |
| 5 | JEFFERSON FOOTE, PH.D. | PAGE | 4 Foote in the matter of Pfizer, Incorporated and |
| 6 | | | 5 Samsung Bioepis Company, Ltd. v. Genentech |
| 7 | Exhibit 1050 Paper, Chimeric | 39 | 6 Incorporated, for the United States Patent and |
| 8 | Immunoglobulins Specific for p55 Tac | | 7 Trademark Office before the Patent Trial and |
| 9 | Protein of the IL-2 Receptor | | 8 Appeal Board, Case No. IPR2017-01488 and |
| 10 | Exhibit 1003 Declaration of Jefferson | 48 | 9 IPR2017-01489. |
| 11 | Foote, Ph.D. | | 10 Today's date is June 14th, 2018; the time |
| 12 | Exhibit 1071 European Patent | 55 | 11 is approximately 8:55 a.m. The videographer today |
| 13 | Application No. 0 403 156 | | 12 is Charlie Bowman representing Planet Depos. This |
| 14 | Exhibit 1052 Kabat paper on Sequences | 79 | 13 video deposition is taking place in New York, New |
| 15 | of Proteins of Immunological Interest | | 14 York. |
| 16 | Exhibit 1063 Chothia paper on Domain | 83 | 15 Would counsel please voice-identify |
| 17 | Association in Immunoglobulin | | 16 yourselves for the record. |
| 18 | Molecules | | 17 MR. LASKY: Benjamin Lasky from Kirkland & |
| 19 | | | 18 Ellis for Petitioner Pfizer and for the witness. |
| 20 | | | 19 MR. THAKORE: Amit Thakore from White & |
| 21 | | | |
| 22 | | | 20 Case for Petitioner Samsung Bioepis.21 MR. GUNTHER: Bob Gunther and Nora |
| | | | 21 MR. GUNTHER: Bob Gunther and Nora |
| | | | 22 Passamaneck from WilmerHale for Patent Owner, and |

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0 11 1 I think -- Traci, could you just --1 Exhibit 1202? 2 MS. ROPP: Traci Ropp from Genentech. 2 A I couldn't think of any. 3 3 Q Is there anything in Exhibit 1202 that you THE VIDEOGRAPHER: The court reporter is Nancy Mahoney representing Planet Depos. Would 4 believe should be corrected or changed? 4 5 the court reporter please swear in the witness. 5 A No. 6 JEFFERSON FOOTE, PH.D., Q Okay. I'm going to ask you pretty much 6 7 the same questions with respect to the 7 after having been first duly sworn or affirmed to 8 Exhibit 1702, your reply declaration in the 01489 8 testify to the truth, was examined and 9 testified as follows: 9 IPR. If you turn to page 114, can you confirm 10 EXAMINATION BY COUNSEL FOR THE 10 that that is your signature? 11 PATENT OWNER GENENTECH BY ROBERT GUNTHER: 11 A Yes, that is. 12 Q Dr. Foote, good to see you again. 12 Q And, sir, are you aware of any errors or 13 inaccuracies in that document? 13 A Good to see you. 14 Q So what -- I think what we'll start -- I'm 14 A No. 15 going to hand you copies of your two reply 15 Q Is there anything in there that you 16 declarations. 16 believe needs to be corrected or changed? 17 A All right. 17 A Nothing special --18 Q So the first one I'm going to give you is 18 Q Okay. 19 from the 01488 IPR which is your reply declaration 19 A -- nothing that's incorrect. 20 which is Exhibit 1202. 20 Q Nothing, I'm sorry, that's --A Nothing incorrect. 21 A Okay. 21 22 Q Okay. If -- so let me ask you this. With 22 (Exhibit 1202 Reply Declaration of 10 12 1 Jefferson Foote, Ph.D. previously marked, is 1 respect to those two reply declarations that we 2 attached to the transcript.) 2 have in front of you, approximately how many hours Q And why don't I just while I'm at it --3 did you spend preparing those declarations? 3 4 MR. LASKY: May I --4 A Gosh, tough to estimate. 5 MR. GUNTHER: Oh, yeah, of course. 5 Q Let me -- if this helps --Q And I'll also give you your reply 6 6 A 50 hours. declaration from the 01489 IPR which is Exhibit --Q I was going to say, you had previously 7 7 Pfizer Exhibit 1702? 8 testified with respect to your initial 8 9 (Exhibit 1702 Reply Declaration of 9 declarations you had spent about 50 hours on 10 Jefferson Foote, Ph.D. previously marked, is 10 those. 11 attached to the transcript.) 11 A I think --12 Q And starting with the Exhibit 1202, if I 12 Q So go ahead. 13 can, if you turn to the last page of the A I think I may have spent more on the 13 14 declaration, which I think is page 114, can you 14 initial declaration, but around 50 --15 confirm that's your signature? 15 Q Okay. All right. A That is. A -- maybe 60, but in that range. 16 16 17 Q And then you signed the declaration, the 17 Q Thank you. 18 reply declaration, on May 25th, 2018. Is that 18 A Not a hundred. 19 correct? 19 Q Right. And when did you start working on 20 A That's right. 20 those declarations? Q Are you -- as you sit here, Dr. Foote, are 21 A In May. 21 22 you aware of any errors or inaccuracies in 22 Q May of this year?

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

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