

1 - VOLUME 2 -

2 IN THE UNITED STATES DISTRICT COURT
3 IN AND FOR THE DISTRICT OF DELAWARE

4 - - -

5 NOVARTIS PHARMACEUTICALS : CIVIL ACTION
6 CORPORATION, and :
7 NOVARTIS AG, :

8 Plaintiffs, :

9 vs. :

10 WEST-WARD :
11 PHARMACEUTICALS :
INTERNATIONAL LIMITED, :

12 Defendant. : NO. 15-474 (RGA)

13 - - -

14 Wilmington, Delaware
15 Thursday, September 14, 2017
16 8:30 o'clock, a.m.

17 - - -

18 BEFORE: HONORABLE RICHARD G. ANDREWS, U.S.D.C.J.

19 - - -

20 APPEARANCES:

21 McCARTER & ENGLISH
22 BY: DANIEL M. SILVER, ESQ.

23 -and-
24

1 APPEARANCES (Continued):

2
3 FITZPATRICK, CELLA, HARPER & SCINTO
4 BY: NICHOLAS KALLAS, ESQ.,
5 CHARLOTTE JACOBSEN, ESQ. and
6 CHRISTINA SCHWARZ, ESQ.
7 (New York, New York)

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9 Counsel for Plaintiffs

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11 POTTER, ANDERSON & CORROON LLP
12 BY: DAVID E. MOORE, ESQ. and
13 BINDU A. PALAPURA, ESQ.

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15 -and-

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17 GOODWIN PROCTER LLP
18 BY: KEITH A. ZULLOW, ESQ.,
19 MICHAEL B. COTTLER, ESQ.,
20 MARTA E. GROSS, ESQ.,
21 NATASHA DAUGHTREY, ESQ. and
22 CINDY CHANG, ESQ.
23 (New York, New York)

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Counsel for Defendant

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1 P R O C E E D I N G S

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3 (Proceedings commenced in the
4 courtroom beginning at 8:30 a.m.)

5
6 THE COURT: All right. Good
7 morning. Everyone, please be seated.

8 Dr. Cho, wherever you are.

9 MS. JACOBSEN: Good morning, your
10 Honor. We have cross-examination booklets for
11 the Court and for the witness.

12 THE COURT: All right.

13 MS. JACOBSEN: May we approach?

14 THE COURT: Sure.

15 (Binders handed to the Court and
16 to the witness.)

17 ... DR. DANIEL CHANG CHO,
18 having previously been duly sworn as a
19 witnesses, was examined and testified as
20 follows ...

21 CROSS-EXAMINATION4.

22 BY MS JACOBSEN:

23 Q. Good morning, Dr. Cho.

24 A. Hello.

1 Q. Dr. Cho, as of February 2001,
2 there was a need for new treatments for advanced
3 RCC; is that right?

4 A. Yes, I would agree with that
5 statement.

6 Q. And you agree that attempts to use
7 cytotoxic chemotherapy to treat advanced RCC had
8 failed prior to 2001; is that right?

9 A. I don't actually know what the
10 word "failed" means. There were responses seen
11 to different cytotoxic chemotherapy regimens. I
12 think the sense in the field was it was not
13 effective.

14 Q. And attempts to use hormonal
15 therapy to treat advanced RCC had been
16 unsuccessful prior to February 2001; is that
17 correct?

18 A. Yes, hormonal therapy had not been
19 successful.

20 Q. All right. And I would like to
21 discuss your definition of a POSA, so let's have
22 a look at your slide No. 6, and we've added some
23 highlighting.

24 Now, in your opinion, a POSA would

1 have had experience conducting preclinical,
2 clinical and/or laboratory research relating,
3 among other things, to rapamycin and its
4 analogs. Right, Dr. Cho?

5 A. That is correct.

6 Q. And the only class of drugs you
7 identified in your POSA definition was rapamycin
8 and its analogs; is that right?

9 A. Yes, in the context of this
10 definition, what we're referring to as this
11 amongst other things as an example.

12 Q. Right. But that's the only
13 example you provided in your definition of a
14 POSA; right?

15 A. Yes, that's the only example we
16 included.

17 Q. Several novel classes of therapies
18 were being developed for cancer therapy in
19 February 2001; right?

20 A. Yes, several classes were being
21 developed.

22 Q. And more specifically, many
23 approaches were being considered to find new
24 treatments for advanced RCC in February 2001;

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