

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3

4 MODERNA THERAPEUTICS, INC.,)
) Case No. IPR2018-00680
5 Petitioner,) Case No. IPR2018-00739
) Patent No. 9,404,127
6 v.) Patent No. 9,364,435
)
7 PROTIVA BIOTHERAPEUTICS,)
 INC.,)
8)
 Patent Owner.)

9
10 DEPOSITION UPON ORAL EXAMINATION
11 OF
12 DAVID H. THOMPSON, PhD - VOLUME I

13
14 Taken at 701 Fifth Avenue, Suite 5100
15
16 Seattle, Washington
17
18
19
20
21
22

23 Job No: 154632
24 DATE TAKEN: February 4, 2019
25 REPORTED BY: KATHLEEN HAMILTON, RPR, CRR, CCR 1917

A P P E A R A N C E S

FOR THE PETITIONER:

MACLAIN WELLS, ESQ.
Irell & Manella
1800 Avenue of the Stars
Los Angeles, California
90067

FOR THE PATENT OWNER:

MICHAEL ROSATO, ESQ.
SONJA GERRARD, ESQ.
Wilson Sonsini Goodrich &
Rosati
701 Fifth Avenue
Seattle, Washington 98104

ALSO PRESENT:

ANDREW JANOFF, PhD

* * * * *

DEPOSITION OF DAVID H. THOMPSON, PhD

EXAMINATION INDEX

EXAMINATION BY	PAGE
MR. WELLS.....	4

EXHIBIT INDEX

EXHIBITS FOR IDENTIFICATION	PAGE
Exhibit 1 David H. Thompson curriculum vitae	11
Exhibit 2 Declaration of David H. Thompson, Ph.D.	43
Exhibit 3 Corrected Declaration of David H. Thompson, Ph.D. in Support of Patent Owner's Contingent Motion to Amend	43
Exhibit 4 Declaration of David H. Thompson, Ph.D.	44
Exhibit 5 United States Patent 9,364,435 B2	78
Exhibit 6 United States Patent 9,404,127 B2	78
Exhibit 7 Declaration of Andrew S. Janoff, Ph.D. in Support of Moderna Therapeutics Inc.'s Petition for Inter Partes Review of U.S. Patent No. 9,364,435	80
Exhibit 8 WO 2005/007196 A2	190
Exhibit 9 United States Patent Application Publication US 2006/0134189 A1	190

1 DAVID H. THOMPSON, PhD

2 SEATTLE, WASHINGTON; FEBRUARY 4, 2019

3 10:54 a.m.

4 -o0o-

5
6 DAVID H. THOMPSON, PhD, witness herein, having been
7 first duly sworn on oath,
8 was examined and testified
9 as follows:

10
11 E X A M I N A T I O N

12 BY MR. WELLS:

13 Q. And for the record, I am counsel for petitioner
14 Moderna, and with me is Dr. Andrew Janoff.

15 Can you state your name and your home address
16 for the record, please?

17 A. Sure. David H. Thompson. 230 Spring Valley
18 Lane, West Lafayette, Indiana 47906.

19 Q. And have you been deposed before?

20 A. Yes.

21 Q. How many times?

22 A. Once.

23 Q. Once.

24 And was that a case where you were retained as
25 an expert?

1 DAVID H. THOMPSON, PhD

2 A. Yes.

3 Q. And generally, I don't want you to get into the
4 specifics of the technology, but generally what did that
5 case involve?

6 A. PEGylation of lipid -- PEGylation of liposomes.

7 MR. ROSATO: Counsel, do you want us to just
8 announce ourselves for the record real quick?

9 MR. WELLS: Sure.

10 MR. ROSATO: Mike Rosato on behalf of
11 Arbutus, Protiva. And I have Sonja Gerrard with me as
12 well both from Wilson Sonsini.

13 BY MR. WELLS:

14 Q. And who was involved in that lawsuit? Do you
15 remember the parties?

16 A. It was ALZA and PolyMask.

17 Q. And was that a federal district court case, a
18 lawsuit or was that a patent hearing, do you recall?

19 A. It was, the -- it was, what 16, 17 years ago.
20 So the details are a little bit fuzzy other than the
21 technical issues. So I don't... As I recall, that was
22 an infringement case.

23 Q. And do you recall whether you were opining about
24 the validity of the patents that were at issue in that
25 case?

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.