

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

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

12 DEPOSITION UPON ORAL EXAMINATION

13 OF

14 DAVID H. THOMPSON, PhD - VOLUME II  
15 \_\_\_\_\_

16 Taken at 701 Fifth Avenue, Suite 5100

17 Seattle, Washington

18 DATE TAKEN: February 5, 2019

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24 REPORTED BY: KATHLEEN HAMILTON, RPR, CRR, CCR 1917

25 JOB NO: 154633

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\* \* \* \* \*

## DEPOSITION OF DAVID H. THOMPSON, PhD

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1 DAVID H. THOMPSON, PhD

2 SEATTLE, WASHINGTON; FEBRUARY 5, 2019

3 8:54?a.m.

4 -o0o-

5  
6 E X A M I N A T I O N

7 BY MR. WELLS:

8 Q. You understand that you're still under oath that  
9 you gave yesterday to tell the truth and the whole  
10 truth?

11 A. Yes.

12 Q. And during the breaks yesterday or yesterday  
13 evening, did you discuss your deposition testimony here  
14 today with anybody?

15 A. No.

16 Q. With regard to the `435 patent, do you  
17 understand that one of the grounds involves the 054  
18 reference? Do you recall that?

19 MR. ROSATO: Objection. Form.

20 THE WITNESS: 054?

21 BY MR. WELLS:

22 Q. Oh, actually I should have said `554. I  
23 apologize. That was my error. Let's try that again.

24 A. Yeah.

25 Q. With regard to the `435 patent, do you recall

1                   DAVID H. THOMPSON, PhD

2 one of the references cited was the `554 patent?

3       A.    Correct.  Yes, I recall.

4       Q.    Okay.  And I'll give you a copy of the `554  
5 patent should you need it.  It was previously marked as  
6 Exhibit 1004 to the `435 IPR.

7                   (Exhibit 10 marked.)

8 BY MR. WELLS:

9       Q.    Now, the `554 publication has a formulation  
10 called the L054 formulation.  Do you recall that?

11      A.    Yes, I do recall.

12      Q.    And the cationic lipid used in the L054 lipid  
13 mixture is a DMOBA, do you recall that?

14      A.    I recall the structure.  I don't...  The acronym  
15 I would have to look back and refamiliarize myself, but  
16 it's a -- an aerial ether dimethylamino -- benzyl  
17 dimethylamino lipid.

18      Q.    And if you look at paragraph 122 of your `435  
19 declaration, that has a discussion where you identify  
20 DMOBA as the acronym.

21      A.    Paragraph...?

22      Q.    122.

23      A.    122.  Yes; okay I see it.

24      Q.    And do you know whether DMOBA is an ionizable  
25 cationic lipid?

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