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4 UNITED STATES DISTRICT COURT  
5 CENTRAL DISTRICT OF CALIFORNIA  
6 SOUTHERN DIVISION

7 THE HONORABLE ANDREW J. GUILFORD, JUDGE PRESIDING

8 CERTIFIED TRANSCRIPT

9 ALLERGAN USA, INC., et al., }  
10 Plaintiff, }

vs. }

} SACV-13-1436-AG

11 MEDICIS AESTHETICS, INC., )  
12 et al., )

Defendants. }

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15 REPORTER'S TRANSCRIPT OF PROCEEDINGS

16 Santa Ana, California

17 August 12, 2014

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08:30

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1 SANTA ANA, CALIFORNIA; TUESDAY, AUGUST 12, 2014; 9:04 A.M.

08:56 2 THE CLERK: SACV-13-1436-AG, Allergan USA, Inc.,  
09:04 3 et al., versus Medicis Aesthetics, Inc., et al.

09:05 4 THE COURT: Good morning.

09:05 5 Let's have appearances, please.

09:05 6 MS. GARNER: Good morning, Your Honor. Laura  
09:05 7 Garner, and I have with me Michael Kane and Elizabeth  
09:05 8 Flanagan.

09:05 9 MR. NORRIS: Good morning, Your Honor. Donald  
09:05 10 Norris for the defendants.

09:05 11 MR. CAVANAUGH: Good morning, Your Honor. Bill  
09:05 12 Cavanaugh on behalf of the defendants.

09:05 13 MR. HOWARD: Good morning, Your Honor. Scott  
09:05 14 Howard on behalf of the defendants.

09:05 15 THE COURT: All right, welcome all. I hope you  
09:05 16 all received the tentative that was sent out.

09:05 17 I am prepared to describe how we should proceed,  
09:05 18 but I am also open to suggestions. Do the parties before me  
09:06 19 have any suggestions on how we should proceed?

09:06 20 MR. CAVANAUGH: Your Honor, we conferred briefly.  
09:06 21 Based on the Court's tentative ruling, it certainly appears  
09:06 22 that the Court understands the technology at issue in this  
09:06 23 case, and we don't think -- I don't think either side  
09:06 24 believes that a tutorial is really necessary.

09:06 25 THE COURT: I agree.

09:06 1 MR. CAVANAUGH: From our perspective at oral  
09:06 2 argument, there is only really one claim construction issue  
09:06 3 we would like to take up with the Court, and that's on the 2  
09:06 4 to 20 percent degree of cross-linking issue.

09:06 5 THE COURT: I found that one of the most  
09:06 6 interesting. So you want to talk about 2 to 20 percent.

09:06 7 MR. CAVANAUGH: Right.

09:06 8 MR. KANE: Your Honor, as counsel said, we did  
09:06 9 discuss it the hallway, and we don't believe that a  
09:06 10 tentative is necessary.

09:07 11 THE COURT: You mean a tutorial.

09:07 12 MR. KANE: We don't believe that a tutorial is  
09:07 13 necessary. We have reviewed the tentative as well. We  
09:07 14 stand by our constructions and proposals that were submitted  
09:07 15 in the briefing, but in the sense of what we do today to  
09:07 16 accomplish and move things forward, Allergan is prepared to  
09:07 17 submit on the tentative and has no issues that it would like  
09:07 18 to raise with the Court. Obviously we would like a chance  
09:07 19 to respond to the defendants on the 2 to 20.

09:07 20 THE COURT: All right, let's hear 2 to 20. We  
09:07 21 will go back and forth on that. That really helps focus,  
09:07 22 and that's one of the reasons we issue tentatives.

09:07 23 MR. CAVANAUGH: Thank you, Your Honor.

09:07 24 THE COURT: By the way, it's always helpful to  
09:07 25 focus on any specific passages or lines or sections in the

09:08 1 tentative, but proceed as you wish.

09:08 2 MR. CAVANAUGH: Your Honor, I think it would be  
09:08 3 helpful if the Court has the '475 patent because I will  
09:08 4 refer to sections there. No graphics are really necessary.

09:08 5 THE COURT: Very well. I agree. I'll get the  
09:08 6 '475 patent. Go ahead.

09:08 7 MR. CAVANAUGH: Your Honor, in the tentative, you  
09:08 8 concluded that this was not a clear statement of the scope  
09:08 9 of the invention in column 9 at 30 to 34. The Court gave a  
09:08 10 number of reasons for that conclusion while noting I believe  
09:08 11 that it is a close question.

09:08 12 Let me start with column 9, Your Honor, and the  
09:08 13 language -- and the two sentences that follow that  
09:09 14 statement.

09:09 15 THE COURT: Just a moment. I have to gather the  
09:09 16 patent.

09:09 17 MR. CAVANAUGH: I know it's Exhibit A to Ms.  
09:09 18 Flanagan's deposition.

09:09 19 THE COURT: All right. I have it.

09:09 20 MR. CAVANAUGH: Column 9, Your Honor, line 30,  
09:09 21 this is what we are contending is the clear statement of the  
09:09 22 scope of the invention: "The degree of cross-linking in the  
09:09 23 HA component of the present compositions is at least about  
09:09 24 2 percent and is up to about 20 percent." The two sentences  
09:09 25 that follow when read in context with that are simply

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