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IN THE UNITED STATES DISTRICT COURT.

IN AND FOR THE DISTRICT OF DELAWARE

- - -

ALCON RESEARCH, LTD.,)
)
Plaintiff,) C.A. No. 15-1159 (GMS) (SRF)
)
v.) CONSOLIDATED
)
WATSON LABORATORIES, INC.,)
)
Defendant.)

- - -

ALCON RESEARCH, LTD.,)
)
Plaintiff,)
)
v.)
)
LUPIN LTD. and LUPIN)
PHARMACEUTICALS, INC.,)
)
Defendants.)

- - -

Wilmington, Delaware
Thursday, October 5, 2017
9:00 a.m.
Bench Trial - Day 4

- - -

BEFORE: HONORABLE GREGORY M. SLEET, Senior Judge, U.S.
District Court of DE

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- - -

:03:35 1 THE COURT: Good morning. Please, take your
:03:37 2 seats, ladies and gentlemen.

:03:39 3 Mr. Schuman.

:03:40 4 MR. SCHUMAN: Good morning, Your Honor.

:03:41 5 I understand the videos are now fixed. We have
:03:43 6 a 28-minute video of Dr. Wheeler for you.

:03:46 7 THE COURT: Okay. Thank you.

:03:53 8 (Video played as follows.)

:03:54 9 "Question: Good morning, Dr. Wheeler.

:03:55 10 "Answer: Good morning.

:03:56 11 "Question: I would like to start by discussing
:03:59 12 your education. Could you identify where you went to
:04:02 13 college and what your degree was?

:04:05 14 "Answer: My undergraduate degree is in
:04:07 15 biochemistry and I went to the University of Rochester. I
:04:11 16 have a Ph.D. in pharmacology from the University of Alabama
:04:15 17 at Birmingham.

:04:17 18 "Question: When did you get your Bachelor's
:04:19 19 degree?

:04:20 20 "Answer: I graduated in 1992.

:04:22 21 "Question: And did you go straight to graduate
:04:25 22 school at that point?

:04:27 23 "Answer: Yes.

:04:28 24 "Question: And when did you obtain your Ph.D.
:04:35 25 in pharmacology?

Wheeler - depo.

:04:37 1 "Answer: That was, I believe, in December of
:04:38 2 1997.

:04:39 3 "Question: What did you do after your post-doc?

:04:44 4 "Answer: I obtained the position in in vivo
:04:47 5 technology at Alcon.

:04:48 6 "Question: How long did you hold that position?

:04:53 7 "Answer: For approximately eight years.

:04:55 8 "Question: So what year does that bring us up
:04:58 9 to at that point?

:04:59 10 "Answer: About 2009.

:05:02 11 "Question: So up until 2009 at Alcon you were
:05:06 12 focused on in-vivo toxicology?

:05:09 13 "Answer: Correct, various roles within that
:05:12 14 organization.

:05:13 15 "Question: Were you involved with olopatadine?

:05:18 16 "Answer: Yes.

:05:18 17 "Question: Were your responsibilities directed
:05:20 18 to the development side?

:05:22 19 "Answer: Yes.

:05:24 20 "Question: Did you do preclinical work or --

:05:28 21 "Answer: Yes, I did.

:05:32 22 "Question: What position did you assume in
:05:39 23 2009?

:05:40 24 "Answer: After being in the toxicology
:05:42 25 organization, I transferred to what was known as a project

Wheeler - depo.

1 head role, so it was strictly development.

2 "Question: When did you first get involved with
3 the high-dose olopatadine project?

4 "Answer: I believe it was -- well, back up. As
5 a toxicologist in 2008 and '09, I had exposure to the
6 high-dose olopatadine project. And then when I transitioned
7 to the project head role in 2009, I became the project
8 leader of that project.

9 "Question: I've handed you Exhibit 105. Do you
10 recognize that document?

11 "Answer: I have reviewed several documents
12 prior to -- as part of the preparation for this, and I
13 believe this was one of the documents I may have seen during
14 that review.

15 "Question: Do you know if you would have been
16 at the meeting where this was presented?

17 "Answer: I'm fairly certain I was not.

18 "Question: If you could turn to Page 727. I've
19 seen this acronym TPP a number of places. What does that
20 mean?

21 "Answer: Stands for target product profile.

22 "Question: And what is the target product
23 profile?

24 "Answer: So it's essentially the goalpost for
25 the product in terms of what could be marketable.

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