

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 \_\_\_\_\_  
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4 \_\_\_\_\_  
5 LIQUIDIA TECHNOLOGIES, INC.,

6 Petitioner;

7 -v-

8 UNITED THERAPEUTICS CORPORATION,

9 Patent Owner.

10  
11 The Remote Deposition of SYLVIA HALL-ELLIS, PH.D.,  
12 having been called by the Patent Owner for  
13 examination, taken pursuant to all applicable rules,  
14 conducted via Zoom videoconference, and commencing at  
15 the hour of 9:00 a.m. Mountain Time on the 11th day  
16 of March, 2022.

17  
18  
19  
20  
21  
22  
23 Reported By Beth Radtke, RPR, CRR

24 License No. 084-004561

Page 2

1 APPEARANCES

2

3 COOLEY, LLP

By Ms. Deepa Kannappan

4 1299 Pennsylvania Avenue NW

Suite 700

5 Washington, D.C. 20004-2400

dkannappan@cooley.com

6 (202)842-7800

Appeared on behalf of the Petitioner;

7

8 FOLEY & LARDNER LLP

By Mr. Michael R. Houston

9 321 North Clark Street

Suite 2800

10 Chicago, Illinois 60654-5313

mhouston@foley.com

11 (312)832-4378

Appeared on behalf of the Patent Owner.

12

\*\*\*\*\*

13

14

15

16

17

18

19

20

21

22

23

24

Page 3

1 INDEX

2

3 WITNESS PAGE

4 SYLVIA HALL-ELLIS, PH.D.

Examination By Mr. Houston 4

5 Examination By Ms. Kannappan 45

Further Examination By Mr. Houston 50

6

7 EXHIBITS

8 Exhibit 1112 Declaration 5

Sylvia Hall-Ellis

9 Exhibit 1116 British Library 17

declaration

10 Exhibit 2092 British Library 22

4-20-18 e-mail

11 Exhibit 1117 JAHA Supplement 28

PubMed Search

12 Exhibit 2093 Journal of American 33

College of Cardiology

13 article

Exhibit 1114 AHA Online archive 48

14

\*\*\*\*\*

15

16

17

18

19

20

21

22

23

24

Page 4

1 (Witness sworn.)

2 MR. HOUSTON: Good morning, Dr. Hall-Ellis.

3 My name is Mike Houston with the law firm of Foley &

4 Lardner, and I represent the patent owner, United

5 Therapeutics, in this proceeding, and I'll pause a

6 moment to give opposing counsel to introduce

7 themselves on the record.

8 MS. KANNAPPAN: This is Deepa Kannappan from

9 Cooley, LLP on behalf of petitioner, Liquidia

10 Technologies.

11 SYLVIA HALL-ELLIS, PH.D.,

12 having been first duly sworn, was examined and

13 testified as follows:

14 EXAMINATION

15 BY MR. HOUSTON:

16 Q. Would you just clearly identify yourself for

17 the record, stating your name and address, please?

18 A. I'm Dr. Sylvia Hall-Ellis. I live in

19 Denver, Colorado.

20 Q. Dr. Hall-Ellis, I'm sure you recall we did a

21 deposition earlier in this proceeding not too long

22 ago, so I presume you don't need me to go over the

23 ground rules again this morning; is that correct?

24 A. Yes.

Page 5

1 Q. Okay. I think the main one that I will just

2 remind you of is that because we have a court

3 reporter on this Zoom call who is trying to take down

4 everything we say, it's particularly important that

5 you allow me to finish asking my question, allow your

6 counsel to pose any objections they may want to pose,

7 and then try to answer my question as it was asked.

8 Do you understand that?

9 A. Yes.

10 Q. Okay, thank you.

11 And as a part of this proceeding, you

12 submitted a reply declaration that has been marked as

13 Exhibit 1112. Do you have that understanding,

14 Dr. Hall-Ellis?

15 A. I did write a second declaration to respond

16 to issues raised, yes.

17 Q. And do you have that declaration available

18 to you on your screen through the Exhibit Share

19 portal?

20 A. I have downloaded that, and I have it as a

21 PDF file on my computer.

22 Q. Okay. So we're going to be going through

23 parts of that declaration today, and I will presume

24 that you're able to scroll around your version of the

Page 6

1 declaration and find whatever passages we might be  
2 discussing. If you have trouble doing that, I would  
3 ask that you please let me know.  
4 A. That's fine.  
5 Q. Okay, great.  
6 Dr. Hall-Ellis, I'd like to begin by asking  
7 you to turn to paragraph 33 of that reply  
8 declaration.  
9 Would you let me know when you get there?  
10 A. Okay. In paragraph 33, you say that you  
11 have obtained date-stamped copies of Voswinckel JAHA,  
12 J-A-H-A, all in caps, from The British Library, The  
13 Library of Congress, The Lane Medical Library at the  
14 Stanford University Medical Center, and the  
15 University of California-Davis Health Sciences  
16 Library.  
17 Do you see that?  
18 A. Yes.  
19 Q. Did you yourself -- and you attached those  
20 as Exhibits 1093 to 1096, correct?  
21 A. Yes.  
22 Q. Did you yourself go about photocopying those  
23 copies of the Voswinckel JAHA abstract from those  
24 libraries?

Page 7

1 A. No.  
2 Q. Did you provide a citation to the Voswinckel  
3 JAHA abstract and ask someone to provide those copies  
4 to you?  
5 A. Yes.  
6 Q. Do you recall what citation you provided  
7 when you asked for these?  
8 A. Exact citation, I do not recall.  
9 Q. What do you recall about what you provided  
10 to the libraries when you asked for these copies?  
11 A. When I am searching for any document, the  
12 first step I take is to verify a complete citation,  
13 and that citation is the one I provide to anyone who  
14 is procuring an article or document for me.  
15 Q. So Dr. Hall-Ellis, let me ask again: What  
16 do you recall about what citation you provided in  
17 this instance to obtain these exhibits that you  
18 reference here at paragraph 33 of your declaration?  
19 MS. KANNAPPAN: Objection to form.  
20 BY THE WITNESS:  
21 A. Looking at paragraph 33, I can tell you I  
22 would have provided a list of each of the authors in  
23 the order they appeared on the article itself, the  
24 title of the article, the journal supplement in which

Page 8

1 this appeared, the volume number, the number of the  
2 issue, and the date.  
3 Q. And I'm sorry, what was that last part? The  
4 connection kind of broke up.  
5 A. The date.  
6 Q. The date, okay.  
7 A. I would have given pages also, which I see a  
8 page of -- I would have given the complete pagination  
9 as well.  
10 Q. And I'm sorry, you were looking at something  
11 when you said "I see a page."  
12 A. I'm looking at paragraph 33.  
13 Q. Okay. Okay, so basically, you would have  
14 provided -- I'm sorry, I'm still trying to find the  
15 page that you're referring to. Am I just missing it?  
16 Is there a page number? Oh, I see --  
17 A. The pages here are the pages -- let me get  
18 my glasses.  
19 Q. Now I think I see what you mean.  
20 A. You see? Okay.  
21 Q. You're referring to that page number that  
22 appears down towards the bottom of page 14 of your  
23 declaration that says it's Roman numeral III-295?  
24 A. That is correct.

Page 9

1 Q. So that would have been part of what you  
2 provided to the libraries to seek these copies?  
3 A. Mm-hmm.  
4 Q. Okay. Let's skip ahead just a little bit in  
5 your declaration to paragraph 36, if you could.  
6 A. Okay. I'm there.  
7 Q. And I think probably you have to scroll to  
8 sort of the part of that paragraph 36 that's on  
9 page 17 of your declaration where you say that a POSA  
10 would have found Robert Voswinckel's name in the  
11 author index and would have further found Voswinckel  
12 JAHA.  
13 Do you see that? That's down at the bottom  
14 of that paragraph.  
15 A. I do see that, two, four, six, seven lines  
16 from the bottom of the paragraph.  
17 Q. Okay. To your knowledge, have you provided  
18 any evidence in this proceeding that the author index  
19 that you're referring to there was available anywhere  
20 other than within the supplement itself, the abstract  
21 supplement itself?  
22 MS. KANNAPPAN: Objection to form.  
23 BY THE WITNESS:  
24 A. I'm not sure I'm really understanding what

Page 10

1 you're asking me.  
2 I have provided parts of the index from the  
3 author index, so are you asking me if it's somewhere  
4 else?  
5 BY MR. HOUSTON:  
6 Q. Yeah, sure, that's --  
7 A. What are you asking me?  
8 Q. No problem, Dr. Hall-Ellis, I'll try to ask  
9 it more clearly, and thank you for clarifying when  
10 you don't understand something. That's no problem.  
11 What I'm asking is the author index that you  
12 refer to in this paragraph --  
13 A. Mm-hmm.  
14 Q. -- that appears in the volume of the  
15 supplement that is the same supplement in which the  
16 abstract itself appears, correct?  
17 A. Yes.  
18 Q. And what I'm asking is, have you provided  
19 any evidence that that author index was available  
20 anywhere else besides the supplement itself?  
21 A. You mean in lieu of or in addition to the  
22 listing of the program for the conference?  
23 Q. Right.  
24 A. I'm not sure I can answer that question. I

Page 11

1 have provided excerpts from the conference  
2 proceedings, the index from the publication. I -- I  
3 have no other idea what else it would take. I don't  
4 know the -- I don't know the answer.  
5 Q. Well, the answer was just yes or no.  
6 Have you provided any other evidence -- have  
7 you provided any evidence that the author index was  
8 available anywhere else?  
9 MS. KANNAPPAN: Objection to form, asked and  
10 answered.  
11 She doesn't have to answer yes or no if  
12 that's not what is going to answer the question.  
13 Go ahead, Dr. Hall-Ellis.  
14 MR. HOUSTON: Deepa, that was a speaking  
15 objection, so please --  
16 MS. KANNAPPAN: You are badgering the  
17 witness. I'm allowed to defend her. I'm saying  
18 objection, and I said form before, asked and  
19 answered.  
20 MR. HOUSTON: Deepa, that is a speaking  
21 objection. No, that is a speaking objection. You  
22 can object to form. Please leave it at that. Thank  
23 you.  
24 MS. KANNAPPAN: Counsel, please don't

Page 12

1 interrupt me when I'm speaking.  
2 MR. HOUSTON: Please don't make speaking  
3 objections.  
4 BY MR. HOUSTON:  
5 Q. Dr. Hall-Ellis, I understand that you have  
6 provided excerpts from the author index from the  
7 supplement itself, correct?  
8 A. Yes.  
9 Q. Okay. Have you shown that that author index  
10 is available anywhere other than the supplement  
11 itself?  
12 MS. KANNAPPAN: Objection to form, all the  
13 previous objections.  
14 BY THE WITNESS:  
15 A. I don't know.  
16 BY MR. HOUSTON:  
17 Q. You don't know if you've shown that?  
18 A. I don't recall that I have written those  
19 words specifically.  
20 Q. Okay. As you sit here today, can you think  
21 of any other evidence you have provided to show that  
22 that author index was available somewhere besides the  
23 supplement itself?  
24 MS. KANNAPPAN: Objection to form.

Page 13

1 BY THE WITNESS:  
2 A. I can't answer that question.  
3 BY MR. HOUSTON:  
4 Q. I'm just asking if you can think of anything  
5 else. So is the answer no, you can't think of  
6 anything else?  
7 MS. KANNAPPAN: Objection to form.  
8 BY THE WITNESS:  
9 A. I have -- I have no further response at this  
10 time for that question. I cannot answer further.  
11 BY MR. HOUSTON:  
12 Q. Why can't you answer the question?  
13 A. Because I can't remember.  
14 Q. Okay. All right, fair enough. That -- you  
15 can just answer that way, if that's the case. That's  
16 fine.  
17 Have you provided any evidence, to your  
18 recollection, Dr. Hall-Ellis, have you provided any  
19 evidence that this author index was available online  
20 somewhere?  
21 A. The journal is available online, the  
22 supplements are available online. I do not know the  
23 date they were online.  
24 Q. So let's talk about that statement just a

Page 14

1 little bit, or the next to last statement.  
2 You said the supplements are available  
3 online?  
4 A. Mm-hmm, I did say that.  
5 Q. Okay. Have you provided evidence of where  
6 the supplement is available online in your  
7 declaration?  
8 A. No.  
9 Q. The one that's in front of you?  
10 A. No.  
11 Q. Okay. I would ask you to flip forward in  
12 your declaration to paragraph 49, please.  
13 A. 49. I see that. It is on page 26, is that  
14 correct?  
15 Q. That is correct, yes. And perhaps -- mostly  
16 on page 26, that's correct.  
17 A. Okay. I see that.  
18 Q. And there you discuss a copy of the JAHA  
19 supplement containing the Voswinckel JAHA abstract  
20 that was obtained from The British Library and  
21 attached as Exhibit 1093.  
22 Do you see that?  
23 A. Yes.  
24 Q. Now if we flip the page and go to your

Page 15

1 paragraph 50, let me know when you're able to do  
2 that.  
3 A. I have that.  
4 Q. In paragraph 50, you mention -- you mention  
5 that you have obtained a research librarian's  
6 declaration regarding the Voswinckel JAHA's public  
7 availability from The British Library.  
8 Do you see that?  
9 A. Yes.  
10 Q. Did you yourself obtain this declaration?  
11 A. No.  
12 Q. Why do you say "I obtained a research  
13 librarian's declaration"?  
14 A. I read the declaration from the librarian at  
15 The British Library.  
16 Q. So I'm going to try to -- well, I'm going to  
17 share that exhibit. That exhibit there you refer to  
18 as 1116, correct? The declaration --  
19 A. That's what it says. Okay, now I'm going to  
20 have to go to Exhibit Share, is that correct?  
21 Q. Dr. Hall-Ellis, yes, that is correct, but  
22 just give me one moment. It takes me a moment to  
23 introduce it, so just let me do my thing on my end  
24 and then --

Page 16

1 A. Let's see here. Window. Document share.  
2 Okay.  
3 Q. Just one moment, Dr. Hall-Ellis, it's still  
4 uploading, it looks like.  
5 Okay, Dr. Hall-Ellis. If you are in Exhibit  
6 Share under the folder that says Marked Exhibits, you  
7 should now see one that is labeled Exhibit 1116.  
8 A. I do see that.  
9 Q. Okay. Let me know when you're able to  
10 download that and view it.  
11 A. Let me see here. I see that here. I have  
12 it in front of me. It's all of two pages mm-hmm.  
13 Q. To begin with, Dr. Hall-Ellis, do you have  
14 an understanding of what -- what the legal term  
15 "declaration" refers to?  
16 MS. KANNAPPAN: Objection to form.  
17 BY THE WITNESS:  
18 A. Why don't you tell me.  
19 BY MR. HOUSTON:  
20 Q. Dr. Hall-Ellis, I -- I'm not here to testify  
21 for you. I just would like to understand what your  
22 understanding is of the term "declaration," if you  
23 have one.  
24 MS. KANNAPPAN: Objection to form.

Page 17

1 BY THE WITNESS:  
2 A. I believe I understand what they are.  
3 BY MR. HOUSTON:  
4 Q. Okay. What is your understanding of what  
5 the term "declaration" means?  
6 A. This is a statement which is true, based on  
7 evidence, and written for a specific purpose.  
8 Q. Okay. So that's why you refer to this as a  
9 declaration then, I take it?  
10 A. Yes. It is signed by the individual who  
11 prepared it.  
12 Q. Okay. So if we look at the top of this  
13 document at Exhibit 1116, it appears to be addressed  
14 to a Robert Minn at Cooley.  
15 Do you see that?  
16 A. Yes, I do.  
17 Q. Would it be your understanding that that is  
18 who obtained this document?  
19 A. My understanding is he is the person to whom  
20 this was addressed.  
21 Q. Okay, fine. And this appears to be a  
22 statement or a document from a Ms. S. Rampersad. I'm  
23 not sure if I'm pronouncing that correctly, but do  
24 you see that?

# 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.