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Transcript of Szilard Kiss, M.D.

Date: January 7, 2022

Case: Regeneron -v- Novartis (PTAB)

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<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 3 BEFORE THE PATENT TRIAL AND APPEAL BOARD 4 5 REGENERON PHARMACEUTICALS, INC., 6 Petitioner 7 V. 8 NOVARTIS PHARMA AG, 9 NOVARTIS TECHNOLOGY LLC, 0 NOVARTIS PHARMACEUTICALS CORPORATION, 1 Patent Owners 2 3 Case IPR202 008 6 4 Patent No. 9,220,63 5 6 REMOTE DEPOSITION OF 7 SZILÁRD KISS M.D. UNDER C.F.R. § 42.53 8 Zoom Recorded Videoconference 9 0 /07/2022 10 9:34 a.m. (EST) 11 12 REPORTED BY: AMANDA GORRONO, CLR 13 CLR NO. 052005 0 14 JOB NO. 4 7 55</p>	<p>1 A P P E A R A N C E S 2 Via Zoom Videoconferencing : 3 ON BEHALF OF PETITIONER REGENERON PHARMACEUTICALS, 4 INC.: 5 Anish R. Desai, Esquire 6 Weil, Gotshal & Manges LLP 7 767 Fifth Avenue 8 New York, New York 10153 0119 9 PHONE: +1 212 310 8730 10 E MAIL: Anish.desai@weil.com 11 12 and 13 Elizabeth S. Weiswasser, Esquire 14 Weil, Gotshal & Manges LLP 15 767 Fifth Avenue 16 New York, New York 10153 0119 17 PHONE: +1 212 310 8022 18 E MAIL: Elizabeth.weiswasser@weil.com 19 20 and 21 Andrew Peter Gesior, Esquire 22 Weil, Gotshal & Manges LLP 23 767 Fifth Avenue 24 New York, New York 10153 0119 25 PHONE: +1 212 310 8244 26 E MAIL: andrew.gesior@weil.com 27 28 and 29 Christopher Pepe, Esquire 30 Weil, Gotshal & Manges LLP 31 2001 M Street, NW 32 Washington, D.C. 20036 33 PHONE: +1 202 682 7153 34 E MAIL: Christopher.pepe@weil.com 35 36 CONT'D</p>
<p>1 0 /07/2022 2 9:34 a.m. (EST) 3 4 REMOTE DEPOSITION OF SZILÁRD KISS, M.D. held 5 virtually via Zoom Videoconferencing, before 6 Amanda Gorrone, Certified Live Note Reporter, and 7 Notary Public of the State of New York. 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 A P P E A R A N C E S CONT'D 2 Via Zoom Videoconferencing : 3 ON BEHALF OF PETITIONER REGENERON PHARMACEUTICALS, 4 INC.: 5 Robert T. Vlasits, Esquire 6 Weil, Gotshal & Manges LLP 7 2001 M Street, NW 8 Washington, D.C. 20036 9 PHONE: +1 202 682 7024 10 E MAIL: Robert.vlasits@weil.com 11 12 and 13 Petra Scamborova, PhD, JD 14 Regeneron Pharmaceuticals, Inc. 15 777 Old Saw Mill River Road 16 Tarrytown, New York 10591 17 PHONE: +1 914 847 7611 18 E MAIL: Petra.scamborova@regeneron.com 19 20 ON BEHALF OF THE PATENT OWNERS: 21 Elizabeth J. Holland, Esquire 22 Goodwin Procter LLP 23 The New York Times Building 24 620 Eighth Avenue 25 New York, New York 10018 26 PHONE: +1 212 459 7230 27 E MAIL: Eholand@goodwinlaw.com 28 29 and 30 Molly R. Grammel, Esquire 31 Goodwin Procter LLP 32 100 Northern Avenue 33 Boston, Massachusetts 02210 34 PHONE: +1 617 570 8112 35 E MAIL: Mgrammel@goodwinlaw.com 36</p>

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1 A P P E A R A N C E S C O N T ' D 2 Via Zoom Videoconferencing : 3 O N B E H A L F O F T H E P A T E N T O W N E R S : 4 Shweta Kumar, Esquire 5 Goodwin Procter LLP 6 1900 N Street, NW 7 Washington, D.C. 20036 8 PHONE: +1 202 346 4254 9 E MAIL: Skumar@goodwinlaw.com 10 11 A L S O P R E S E N T : 12 Leah Shenfeld, Technician PlanetDepos 13 Jenevieve Nutovits Goodwin Procter LLP 14 15 16 17 18 19 20 21 22	1 THE TECH: Please stand by for the 2 technician read on and backup recording. Zoom will 3 now prompt you for your consent to video-record this 4 meeting for backup purposes. 5 AUTOMATED MESSAGE: Recording in 6 progress. 7 MR. DESAI: I'm sorry, we're not, 8 we're not video recording this deposition. 9 THE TECH: Okay. This is a backup 10 video recording. It doesn't mean to be -- it's not 11 like, you know, a videotaped deposition. 12 MR. DESAI: Got it. Okay. 13 THE TECH: Is that okay with you? 14 MR. DESAI: That's fine with me as 15 long as we're not going to order the video or 16 anything like that. That's fine. 17 THE TECH: No, no, no. There's no 18 videographer. It's not, you know -- 19 MS. HOLLAND: I assume it's just to 20 make sure the transcript is accurate eventually. 21 MR. DESAI: That's fine with me. 22 THE TECH: Okay. Thank you to
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2 I N D E X 3 W I T N E S S E X A M I N A T I O N B Y P A G E 4 S Z I L Á R D K I S S , M . D . M S . H O L L A N D 8 5 6 7 8 9 E X H I B I T S I D E N T I F I E D 10 11 E X H I B I T D E S C R I P T I O N P A G E 12 E x h i b i t 0 3 D e c l a r a t i o n o f D r . S z i l á r d K i s s . . 0 13 E x h i b i t 0 0 7 W O 2 0 / 0 0 6 8 7 7 A 5 8 14 E x h i b i t 0 2 9 W O 2 0 / 0 7 7 5 5 A 6 4 15 16 17 18 19 20 21 22	1 everyone for attending this proceeding remotely which 2 we anticipate will run smoothly. 3 Please remember to speak slowly and 4 do your best to not talk over one another. Please be 5 aware there will be a recording of this proceeding 6 for backup purposes. Any off-the-record discussions 7 should be had away from the computer. Please 8 remember to mute your mic for those conversations. 9 Please have your video enabled to 10 help the reporter identify who is speaking. If 11 you're unable to connect with video and are 12 connecting via phone, please identify yourself each 13 time before speaking. 14 We will provide a complimentary 15 unedited recording of this deposition with the 16 purchase of a transcript. I apologize in advance for 17 any technical-related interruptions. 18 Thank you. 19 SZILÁRD KISS M.D. called as a witness, having been 20 first duly sworn by a Notary Public of the State of 21 New York, was examined and testified as follows: 22 EXAMINATION

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1 BY MS. HOLLAND: 2 Q. Good morning, Dr. Kiss. 3 A. Good morning. 4 Q. I'd like to start if I could by 5 asking you to open up whatever box or envelope you 6 got with the exhibits. 7 A. (Indicating.) 8 Q. Thank you, yeah. 9 A. Give me one second. I'm just opening 10 it up here. 11 Q. Yeah, sure, no problem. 12 A. It looks like I received, one, two, 13 three, four, five, six, seven, eight, nine manila 14 envelopes or these envelopes. 15 Q. That sounds right. Thank you. 16 Okay. So why don't you take out the 17 one that's your Declaration in this IPR which is 18 Exhibit 1031. And we're going to be using the IPR 19 exhibit numbers as the deposition exhibit numbers as 20 well. 21 A. Just give me one moment. At 1031, 22 did you say, the one dated --	1 open to the first page of the Declaration. It's 2 actually No. 1031.003. 3 A. Yes, I'm open to that page. 4 Q. Okay. And I'm going to direct your 5 attention to Paragraph 3. 6 A. Yes. Just give me one moment to read 7 that paragraph. 8 Q. Go ahead. 9 A. Yes. 10 Q. Okay. And you say that there that 11 you've assumed that Claim 1 of the '631 patent was 12 separately shown to be obvious based on prior art and 13 the Declaration of Horst Koller. 14 Do you see that? 15 A. Yes, I do. 16 Q. Did you actually review Mr. Koller's 17 Declaration? 18 A. I reviewed a portion of Mr. Koller's 19 Declaration that related to the POSITA but not the 20 whole Declaration. 21 Q. Okay. Did you read the parts of the 22 Declaration where he talked about the prior art?
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1 (Whereupon, Exhibit 1031, Declaration 2 of Dr. Szilárd Kiss, was identified.) 3 BY MS. HOLLAND: 4 Q. I did. 5 A. Okay. 6 THE TECH: Ms. Holland, this is the 7 tech. Would you like me to pull up that exhibit on 8 my screen as well? 9 MS. HOLLAND: I'll ask Mr. Desai and 10 company if they want everything up on the screen. 11 THE WITNESS: As long as I have a 12 copy of it, I don't need it up on the screen. I have 13 a copy of the Declaration, so... 14 Q. Okay. Just let us know if you need 15 anything up on the screen and we'll do that. 16 A. Yeah. 17 THE TECH: Thank you. 18 A. I have it. 19 Q. You have that out, Dr. Kiss? Thank 20 you. 21 A. I do. 22 Q. Okay. And what I'd like you to do is	1 A. I did not read any other part of the 2 Declaration. 3 Q. Okay. So when you say you have 4 assumed, what was that based on? 5 MR. DESAI: Objection to form. 6 A. That is based on an assumption, as I 7 stated, that I assumed that the Claim 1 has 8 separately been shown to be obvious. 9 Q. Okay. I just want to be -- I'm 10 sorry. Go ahead. 11 A. It's an assumption. 12 Q. Okay. And you were asked to make 13 that assumption by counsel, correct? 14 A. I made the assumption in order to 15 form my Declaration, correct. 16 Q. Okay. And counsel asked you to make 17 that assumption; is that right? 18 MR. DESAI: Objection; form, asked 19 and answered. And if you're asking for the 20 communications between counsel and Dr. Kiss, you 21 know, I don't think he has to answer that question. 22 He's otherwise answered it.

3	1 MS. HOLLAND: I'm asking for the 2 basis of the assumption. 3 MR. DESAI: An assumption is an 4 assumption. You don't have to have a basis for an 5 assumption. So let's move on. 6 Q. What was your basis for providing in 7 your Declaration that you would assume that Claim 1 8 has been shown to be obvious? 9 MR. DESAI: Objection; form. 10 A. It was my assumption that Claim 1 was 11 shown to be obvious and my Declaration is based on 12 that assumption. 13 Q. Okay. You don't have an opinion one 14 way or the other about whether Claim 1 is obvious, 15 correct? 16 A. Claim 1 is beyond the scope of my 17 Declaration. 18 Q. Okay. So just if you can answer my 19 question. Do you have an opinion one way or the 20 other on whether Claim 1 is obvious? 21 A. Claim 1 is beyond the scope of my 22 Declaration.	5
4	1 Q. Okay. So does that mean you don't 2 have an opinion? 3 A. I have not formed an opinion, as I 4 have not had, and not analyzed Claim 1. 5 Q. All right. And is it correct to say 6 you don't have the appropriate expertise to offer an 7 opinion about whether Claim 1 is obvious? 8 MR. DESAI: Objection; form, outside 9 the scope. 10 A. So as I have stated, I have not 11 evaluated Claim 1 and I have not evaluated whether I 12 would have expertise or not. 13 Q. Okay. So are you telling me that -- 14 well, let me step back for a second. 15 Have you looked at Claim 1? 16 A. I have not looked at Claim 1. 17 Q. Okay. So you don't know what Claim 1 18 says? 19 A. I have not looked at Claim 1. 20 Q. All right. I asked a different 21 question. 22 Do you know what Claim 1 says?	6

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