

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SLAYBACK PHARMA LLC,

Petitioner,

v.

EYE THERAPIES, LLC

Patent Owner.

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Case No. IPR2022-00142

U.S. Patent No. 8,293,742

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ZOOM DEPOSITION OF PAUL A. LASKAR, Ph.D.

Thursday, August 4, 2022

Reported by:

Jeannette McCormick

Job No. 52406

Henderson Legal Services. Inc.

<p style="text-align: right;">2</p> <p>1 UNITED STATES PATENT AND TRADEMARK OFFICE</p> <p>2</p> <p>3 -----X</p> <p>4 BEFORE THE PATENT TRIAL AND APPEAL BOARD</p> <p>5 -----X</p> <p>6</p> <p>7 SLAYBACK PHARMA LLC,</p> <p>8 Petitioner,</p> <p>9 v.</p> <p>10 EYE THERAPIES, LLC</p> <p>11 Patent Owner.</p> <p>12 -----X</p> <p>13 Case No. IPR2022-00146</p> <p>14 U.S. Patent No. 9,259,425</p> <p>15 -----X</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 APPEARANCES: (VIA ZOOM)</p> <p>2</p> <p>3</p> <p>4 FINNEGAN, HENDERSON, FARABOW, GARRETT</p> <p>5 & DUNNER, LLP</p> <p>6 (VIA ZOOM)</p> <p>7 Attorneys for Patent Owner</p> <p>8 901 New York Avenue, NW</p> <p>9 Washington, D.C. 20001-4413</p> <p>10 BY: JUSTIN J. HASFORD, ESQ.</p> <p>11 CHRISTINA YANG, ESQ.</p> <p>12 (202) 408-4000 (Telephone)</p> <p>13 (202) 408-4400 (Fax)</p> <p>14 justin.hasford@finnegan.com</p> <p>15 christina.yang@finnegan.com</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">3</p> <p>1 REMOTE ZOOM VIDEOTAPED DEPOSITION of PAUL A.</p> <p>2 LASKAR, Ph.D., taken pursuant to Notice, held</p> <p>3 remotely on Thursday, August 4, 2022, at 7:00 a.m.</p> <p>4 Eastern Daylight Time, before JEANNETTE MCCORMICK, a</p> <p>5 Certified Shorthand Reporter.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">5</p> <p>1 APPEARANCES: (VIA ZOOM)</p> <p>2</p> <p>3 (CONTINUED)</p> <p>4</p> <p>5</p> <p>6 Also Present:</p> <p>7</p> <p>8 Deepti Jain (Dr. Reddy's Laboratories)</p> <p>9</p> <p>10 Eric Vavrsek (Videographer)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">6</p> <p style="text-align: center;">I N D E X</p> <table border="0"> <tr> <td style="width: 10%;">1</td> <td style="width: 50%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> <tr> <td>2</td> <td></td> <td></td> <td></td> </tr> <tr> <td>3</td> <td>WITNESS</td> <td>EXAMINATION BY</td> <td>PAGE</td> </tr> <tr> <td>4</td> <td></td> <td></td> <td></td> </tr> <tr> <td>5</td> <td colspan="3">PAUL A. LASKAR, Ph.D.</td> </tr> <tr> <td>6</td> <td></td> <td></td> <td></td> </tr> <tr> <td>7</td> <td></td> <td>MR. HASFORD</td> <td>8</td> </tr> <tr> <td>8</td> <td></td> <td></td> <td></td> </tr> <tr> <td>9</td> <td></td> <td></td> <td></td> </tr> <tr> <td>10</td> <td colspan="3" style="text-align: center;">E X H I B I T S</td> </tr> <tr> <td>11</td> <td>LASKAR</td> <td></td> <td></td> </tr> <tr> <td>12</td> <td>NUMBER</td> <td>DESCRIPTION</td> <td>PAGE</td> </tr> <tr> <td>13</td> <td>1</td> <td>2/19/16 Deposition Transcript of Clayton Heathcock</td> <td>37</td> </tr> <tr> <td>14</td> <td></td> <td></td> <td></td> </tr> <tr> <td>15</td> <td>2</td> <td>Eyenovia, Inc. V Sydnexis, Inc. U.S. Patent No. 10,842,787 U.S. Patent No. 10,940,145 U.S. Patent No. 10,888,557</td> <td>38</td> </tr> <tr> <td>16</td> <td></td> <td></td> <td></td> </tr> <tr> <td>17</td> <td>3</td> <td>Remington - The Science and Practice of Pharmacy - 21st Edition</td> <td>49</td> </tr> <tr> <td>18</td> <td></td> <td></td> <td></td> </tr> <tr> <td>19</td> <td>4</td> <td>Allergan, Inc. v. Sandoz, Inc. (E.D. Texas - August 22, 2011)</td> <td>75</td> </tr> <tr> <td>20</td> <td></td> <td></td> <td></td> </tr> <tr> <td>21</td> <td></td> <td></td> <td></td> </tr> <tr> <td>22</td> <td></td> <td></td> <td></td> </tr> <tr> <td>23</td> <td></td> <td></td> <td></td> </tr> <tr> <td>24</td> <td></td> <td></td> <td></td> </tr> <tr> <td>25</td> <td></td> <td></td> <td></td> </tr> </table>	1				2				3	WITNESS	EXAMINATION BY	PAGE	4				5	PAUL A. LASKAR, Ph.D.			6				7		MR. HASFORD	8	8				9				10	E X H I B I T S			11	LASKAR			12	NUMBER	DESCRIPTION	PAGE	13	1	2/19/16 Deposition Transcript of Clayton Heathcock	37	14				15	2	Eyenovia, Inc. V Sydnexis, Inc. U.S. Patent No. 10,842,787 U.S. Patent No. 10,940,145 U.S. Patent No. 10,888,557	38	16				17	3	Remington - The Science and Practice of Pharmacy - 21st Edition	49	18				19	4	Allergan, Inc. v. Sandoz, Inc. (E.D. Texas - August 22, 2011)	75	20				21				22				23				24				25				<p style="text-align: right;">8</p> <p>1 Cipriano of Goodwin representing Petitioner.</p> <p>2 Also with me appearing today is Deepti Jain</p> <p>3 from Dr. Reddy's Laboratories. And I'll let</p> <p>4 my co-counsel introduce themselves.</p> <p>5 MR. WEINSTEIN: This is Lou Weinstein</p> <p>6 from Windels Marx on behalf of Petitioner.</p> <p>7 THE VIDEOGRAPHER: Will the Court</p> <p>8 Reporter please swear in the witness.</p> <p>9</p> <p>10 PAUL A. LASKAR, Ph.D.,</p> <p>11 having first been remotely duly sworn,</p> <p>12 testified as follows:</p> <p>13</p> <p>14 EXAMINATION</p> <p>15 BY MR. HASFORD:</p> <p>16 Q. Good morning, Doctor.</p> <p>17 A. Good morning.</p> <p>18 Q. Would you please state your name and address</p> <p>19 for the record.</p> <p>20 A. My name is Paul Laskar. And I reside at</p> <p>21 603 Montecito Boulevard, Napa, California. Zip code</p> <p>22 is 94559.</p> <p>23 Q. Doctor, I represent the Patent Owner in these</p> <p>24 IPR proceedings. Today, I will ask you questions.</p> <p>25 I would ask that you answer my questions truthfully</p>
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<p style="text-align: right;">7</p> <p>1 THE VIDEOGRAPHER: This is disk one in</p> <p>2 the video deposition of Paul A. Laskar, Ph.D.</p> <p>3 taken in the matter of Slayback Pharma, LLC</p> <p>4 v. Eye Therapies, LLC, in the United States</p> <p>5 Patent and Trademark Office, Before the</p> <p>6 Patent Trial and Appeal Board, Case Numbers</p> <p>7 IPR 2022-00142 and IPR 2022-00146.</p> <p>8 Today's date is August 4, 2022. The</p> <p>9 time on the video monitor is 7:01 a.m.,</p> <p>10 Eastern Daylight Time.</p> <p>11 This deposition is being held remotely</p> <p>12 via Zoom video conference.</p> <p>13 The Court Reporter is Jeannette</p> <p>14 McCormick, on behalf of Henderson Legal</p> <p>15 Services. The Video Camera Operator is Eric</p> <p>16 Vavrsek, also on behalf of Henderson Legal</p> <p>17 Services.</p> <p>18 Will counsel please introduce themselves</p> <p>19 and state whom they represent beginning with</p> <p>20 the party noticing the deposition.</p> <p>21 MR. HASFORD: Justin Hasford of Finnegan</p> <p>22 on behalf of the Patent Owner. And joining</p> <p>23 me is my colleague Christine Yang, also of</p> <p>24 Finnegan, on behalf of Patent Owner.</p> <p>25 MS. CIPRIANO: Good morning. Linnea</p>	<p style="text-align: right;">9</p> <p>1 and accurately.</p> <p>2 If you need a break, just let me know. And</p> <p>3 if the question is pending, please first answer the</p> <p>4 question, and then we can take the break.</p> <p>5 If for any reason you do not understand the</p> <p>6 question that I ask, please let me know.</p> <p>7 And if you answer the question, I will assume</p> <p>8 that you understood the question.</p> <p>9 Is that okay?</p> <p>10 A. Yes, it is.</p> <p>11 Q. Is there any reason why you cannot testify</p> <p>12 truthfully and accurately today?</p> <p>13 A. No.</p> <p>14 Q. You understand that this is a remote</p> <p>15 proceeding today, correct?</p> <p>16 A. I do understand that, yes.</p> <p>17 Q. Do you agree that you will not communicate</p> <p>18 with any counsel during the proceeding?</p> <p>19 A. I do.</p> <p>20 MR. HASFORD: Let the record reflect</p> <p>21 that we hereby were invoke the Rule on</p> <p>22 Witnesses pursuant to Federal Rule of</p> <p>23 Evidence 615.</p> <p>24 Let's bring up Exhibit 1003 in IPR</p> <p>25 2022-00142 entitled "Declaration of Paul A.</p>																																																																																																				

<p style="text-align: right;">10</p> <p>1 Laskar, Ph.D." 2 THE VIDEOGRAPHER: One moment. 3 BY MR. HASFORD: 4 Q. Can you see that on your screen, Doctor? 5 A. I can. 6 Q. And if you have a hard copy with you, feel 7 free to use that as well. 8 A. I will. 9 Q. Is Exhibit 1003, IPR 2022-00142 your 10 Declaration concerning U.S. Patent No. 8,293,742? 11 A. In as far as the amount of -- the screen that 12 I can see, yes. At the moment, I don't see the 13 title that it is my declaration, but the header does 14 reflect my declaration. 15 Q. Let's turn to the signature page just so that 16 you can confirm. It's page 38. 17 Are you the Paul A. Laskar who signed and 18 submitted Exhibit 1003 in IPR Number 2022-00142 19 concerning U.S. Patent No. 8,293,742? 20 A. Yes. 21 Q. If I refer to U.S. Patent No. 8,293,742 as 22 the '742 patent, will you understand what I mean? 23 A. I will. 24 Q. Let's now bring up Exhibit 1003 in IPR 25 2022-00146, entitled "Declaration of Paul A. Laskar,</p>	<p style="text-align: right;">12</p> <p>1 A. Thank you. 2 Q. Let me know when you're ready, Doctor. 3 A. I am ready. 4 Q. In connection with your opinions in these IPR 5 proceedings, did you review all of the claims of the 6 '742 patent? 7 A. Yes, I did. 8 Q. In connection with your opinions in these IPR 9 proceedings, did you review the entire specification 10 of the '742 patent? 11 A. I did. 12 Q. In connection with your opinions in these IPR 13 proceedings, did you review the entire file history 14 of the '742 patent? 15 A. I did not read every page of the file 16 history, no. 17 Q. Turn, if you would, to column 20 of the '742 18 patent, and let me direct your attention to Claim 1. 19 A. Column 20? 20 Q. Correct. 21 THE VIDEOGRAPHER: I'm sorry. Do you 22 have the page number for me? 23 MR. HASFORD: Just keep scrolling down 24 and we'll get to it. It should be the last 25 page.</p>
<p style="text-align: right;">11</p> <p>1 Ph.D." 2 And when you get that up, Doctor, or if you 3 want to use the hard copy, turn to page 37, and let 4 me know when you're ready. 5 Are you there, Doctor? 6 A. I'm sorry? 7 Q. Are you there? 8 A. Yes. Yes. 9 Q. Are you the Paul A. Laskar who signed and 10 submitted Exhibit 1003 in IPR 2022-00146 concerning 11 U.S. Patent No. 9,259,425? 12 A. Yes. 13 Q. If I refer to U.S. Patent No. 9,259,425 as 14 the '425 patent, will you understand what I mean? 15 A. Yes. 16 Q. Do you understand that your testimony today 17 applies to both the IPR 2022-00142 and IPR 18 2022-00146 proceedings? 19 A. I do. 20 MR. HASFORD: Let's bring up Exhibit 21 1001 in IPR 2022-00142, which is U.S. Patent 22 No. 8,293,742, the '742 patent. 23 BY MR. HASFORD: 24 Q. Again, Doctor, feel free to use the hard 25 copy, if you have it there.</p>	<p style="text-align: right;">13</p> <p>1 THE VIDEOGRAPHER: Okay. Thank you. 2 BY MR. HASFORD: 3 Q. And, I apologize, I think I got the column 4 number wrong. It's going to be the last page of the 5 PDF, column 22. I apologize, Doctor. 6 A. I have it. 7 Q. And take a look, if you would, at Claim 1, 8 and let me when you're ready. 9 A. Yeah. I'm ready. 10 Q. Based on the specification of the '742 11 patent, how would a person of ordinary skill in the 12 art carry out the method of Claim 1 of the '742 13 patent? 14 MS. CIPRIANO: Objection to form. 15 THE WITNESS: That Claim 1 appears 16 directed to a clinical study or a human study 17 because it states that brimonidine is 18 administered to a patient having an ocular 19 condition. 20 BY MR. HASFORD: 21 Q. Based on the specification of the '742 22 patent, how would a person of ordinary skill in the 23 art understand that a method for reducing eye 24 redness consisting essentially of administering 25 brimonidine to a patient according to Claim 1 is</p>

<p style="text-align: right;">14</p> <p>1 carried out? 2 MS. CIPRIANO: Objection to form. 3 THE WITNESS: As I said, it appears that 4 it states that a particular array of a 5 concentration of brimonidine that a POSA, in 6 my opinion, would be in the form that is able 7 to be applied to a patient. 8 BY MR. HASFORD: 9 Q. How does the specification of the '742 patent 10 disclose the method of Claim 1 of the '742 patent? 11 MS. CIPRIANO: Objection to form. 12 THE WITNESS: I'm not quite sure -- that 13 question is very broad and very vague. I 14 don't think I really understand the question. 15 BY MR. HASFORD: 16 Q. Well, you testified earlier that you reviewed 17 the entire specification of the '742 patent, 18 correct? 19 A. I did. 20 Q. Then take as much time as you need to go back 21 and review it again. And when you're ready, I'll 22 ask you the question again. 23 A. I have reviewed it. 24 Q. Let me -- just so we have a clear record, 25 I'll ask the question again.</p>	<p style="text-align: right;">16</p> <p>1 is administered is by means of an ocular 2 drop. 3 BY MR. HASFORD: 4 Q. How does the specification of the '742 patent 5 disclose the method of Claim 3 of the '742 patent? 6 MS. CIPRIANO: Objection. Foundation. 7 Objection. Form. 8 THE WITNESS: I don't know the -- I 9 don't understand the difference between the 10 question you asked before and this one. 11 BY MR. HASFORD: 12 Q. Well, this is a little different. I had 13 asked you a similar question with respect to 14 Claim 1, and you pointed to the examples and the 15 figures. 16 Do you remember that? 17 A. Yes. 18 Q. So let me ask the question with respect to 19 Claim 3. 20 How does the specification of the '742 patent 21 disclose the methods of Claim 3 of the '742 patent? 22 MS. CIPRIANO: Objection to form. 23 THE WITNESS: I would say that it's done 24 in an analogous way to what I responded to 25 Claim 1.</p>
<p style="text-align: right;">15</p> <p>1 How does the specification of the '742 patent 2 disclose the method of Claim 1 of the '742 patent? 3 MS. CIPRIANO: Objection. Foundation. 4 And objection to form. 5 THE WITNESS: As I said, it appears as I 6 read it, that in -- that Claim 1 addresses 7 applying brimonidine at particular 8 concentrations to a person with an ocular 9 condition, and the specification describes in 10 facts and figures the outcome of 11 administering brimonidine at certain 12 concentrations to a patient -- to patients' 13 eyes. 14 BY MR. HASFORD: 15 Q. Let's take a look now at Claim 3 of the '742 16 patent. Based on the specification of the '742 17 patent, how would a person of ordinary skill in the 18 art carry out the method of Claim 3 of the '742 19 patent? 20 MS. CIPRIANO: Objection to form. 21 THE WITNESS: Claim 3, again, appears to 22 administer to a patient a particular 23 concentration of brimonidine having a pH 24 within a particular range, and that the 25 manner in which the product -- that the drug</p>	<p style="text-align: right;">17</p> <p>1 BY MR. HASFORD: 2 Q. The claims of the '742 patent are directed to 3 methods of reducing redness, correct? 4 A. Yes. 5 MR. HASFORD: Let's bring up now Exhibit 6 1001, IPR 2022-00146, which is U.S. Patent 7 No. 9,259,425 or the '425 patent. 8 BY MR. HASFORD: 9 Q. Once again, Doctor, whatever is easiest for 10 you. If you want to look at it on your screen or in 11 hard copy is fine with me. 12 A. I'm looking at it on my hard copy. 13 Q. Okay. That's fine. Just let me know when 14 you're ready. 15 A. I'm ready. 16 Q. In connection with your opinions in these IPR 17 proceedings, did you review all of the claims of the 18 '425 patent? 19 A. Yes. 20 Q. In connection with your opinions in these IPR 21 proceedings, did you review the entire specification 22 of the '425 patent? 23 A. Yes. 24 Q. In connection with your opinions in these IPR 25 proceedings, did you review the entire file history</p>

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