

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

- - -

HELSINN HEALTHCARE, SA, : Civil Action
and ROCHE PALO ALTO. : DOCKET NO.
LLC, : 11-CV-03962
 : (MLC)(DEA)
Plaintiffs, :
 : 13-CV-05815
v. : (MLC)(DEA)
 : (Consolidated)

DR. REDDY'S :
LABORATORIES, LTD, DR. :
REDDY'S LABORATORIES, :
INC., SANDOZ, INC., :
TEVA PHARMACEUTICALS :
USA, INC., and TEVA :
PHARMACEUTICAL :
INDUSTRIES, INC., :
 :
Defendants. :

- - -

Wednesday, January 7, 2015

- - -

Videotaped deposition of MAURIE
MARKMAN, MD taken pursuant to notice, was
held at the law offices of Saul Ewing,
LLP, 1500 Market Street, Philadelphia,
Pennsylvania 19102, beginning at 9:42 AM,
on the above date, before Constance S.
Kent, a Registered Professional Reporter
and Notary Public in and for the
Commonwealth of Pennsylvania.

* * *

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 6 Page Line Page Line Page Line
 7 None
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 20 Question Marked
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 22 None
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1 You see there there's a
2 reference to what one of ordinary skill
3 in the art could do without undue
4 experimentation.
5 Do you see that?
6 A. Yes.
7 Q. What's your understanding of
8 undue experimentation as it applies to
9 your obviousness opinions in this case?
10 A. I would think it's something
11 outside of what the normal, standard
12 research strategy would be.
13 Q. You don't have an opinion
14 about what would or would not constitute
15 undue experimentation to a POSA in terms
16 of the number of antiemetic compounds
17 they might pursue at any one time?
18 A. No.
19 Q. We can agree that there were
20 a number of compounds that could have
21 been potential antiemetic candidates in
22 2002, correct?
23 MR. IMBACUAN: Objection to
24 the form.

1 THE WITNESS: Are you
2 talking specific, just -- just in
3 general?
4 BY MR. DITTMANN:
5 Q. Well, for example, we talked
6 about the class of NK-1s, correct?
7 A. Yes.
8 Q. We know that there were a
9 decent number of NK-1s that were in
10 development in 2002, right?
11 A. Yes.
12 Q. You've obviously offered
13 opinions about a POSA would develop
14 palonosetron, correct?
15 A. Correct.
16 Q. To make sure I understand
17 this correctly, is it your opinion that
18 because there are a number of options
19 available to a POSA, that there needs to
20 have been a reason to pursue palonosetron
21 to avoid the application of hindsight --
22 MR. IMBACUAN: Objection.
23 BY MR. DITTMANN:
24 Q. -- in your analysis,

1 correct?
2 MR. IMBACUAN: Objection to
3 the form.
4 THE WITNESS: As I
5 understand your question, I think
6 that's fair. Because obviously I
7 do appreciate the issue of
8 hindsight, and so I would agree --
9 I agree with your statement, yes.
10 MR. DITTMANN: I'm about to
11 turn to a new topic. So I propose
12 now we take our lunch break. We
13 can do whatever time you want. I
14 can -- is that okay?
15 THE WITNESS: Yes, that's
16 fine with me.
17 THE VIDEOGRAPHER: Going off
18 the record. The time is 12:50 PM.
19 (Lunch recess.)
20 THE VIDEOGRAPHER: The time
21 is 1:41 PM. We are back on the
22 record.
23 BY MR. DITTMANN:
24 Q. Welcome back, Dr. Markman, I

1 hope you enjoyed lunch.
2 A. I did, thank you.
3 Q. Could you please turn to
4 paragraph 53 of your opening report,
5 Exhibit 1?
6 And is it correct here you
7 provide your opinion that the claim 0.25
8 milligram dose is obvious because it was
9 determined through, quote, nothing more
10 than routine experimentation; is that
11 right?
12 A. That's correct.
13 Q. And your opinion is that the
14 clinical studies that are needed to
15 determine that a dose is effective are
16 routine?
17 A. In the drug development in
18 general, and antiemetic therapy in
19 particular, yes.
20 Q. Okay. And is it correct
21 that you'd also be able to determine if a
22 particular claim dosage is effective
23 through routine clinical testing in your
24 review?