	Page 1
1	UNITED STATES PATENT AND TRADEMARK OFFICE
2	BEFORE THE PATENT TRIAL AND APPEAL BOARD
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4	
5	GENOME AND COMPANY
6	Petitioner,
7	V.
8	THE UNIVERSITY OF CHICAGO
9	Patent Owner.
10	
11	Case PGR2019-XX
12	U.S. Patent No. 9,855,302 B2
13	
14	
15	
16	DEPOSITION OF JONATHAN BRAUN, M.D., Ph.D.
17	Washington, D.C.
18	June 19, 2019
19	
20	
21	
22	
23	Job No. 162380
24	Reported by: Linda S. Kinkade RDR CRR RMR RPR CSR
25	



Page 2	Page 3
1	1 APPEARANCES:
2	APPEARANCES:
3	³ Covington & Burling
4	4 On Behalf of Patent Owner
5 Wednesday, June 19, 2019	5 BY: Scott Kamholz, M.D., Ph.D., Esq.
9:10 a.m.	BY: Jennifer Robbins, Ph.D., Esq.
7	7 850 Tenth Street, NW
8	8 Washington, DC 20001
9	9
10	10
The following is the transcript of the	11 Mintz, Levin, Cohn, Ferris, Glovsky and
deposition of JONATHAN BRAUN, M.D., Ph.D. held at the	Popeo Popeo
offices of Covington & Burling LLP, One CityCenter,	On Behalf of Petitioner
¹⁴ 850 Tenth Street, NW, Washington, DC 20001, and	BY: John Bauer, Esq.
reported by Linda S. Kinkade, RDR, CRR, RMR, RPR,	15 666 Third Avenue
CSR, and Notary Public within and for the District of	16 New York, New York 10017
17 Columbia.	17 18
18	
19 20	Willitz, Levili, Colli, i ciris, Glovsky and
21	Popeo 21 On Behalf of Petitioner
22	BY: Kongsik Kim, Esq.
23	23 One Financial Center
24	Boston, Massachusetts 02111
25	25
Page 4	Page 5
1 INDEX OF EXAMINATION	J. BRAUN
2	PROCEEDINGS
3 EXAMINATION OF JONATHAN BRAUN, M.D., Ph.D. PAGE	THE REPORTER: Would counsel state their
4 BY DR. KAMHOLZ 5 5 BY MR. BALIER 90	4 appearances for the record, please. 5 MR_BALIER: John Bauer for In re Genome
5 BY MR. BAUER 90	WIR. Dreek. John Bauer for hire Genome.
7	6 MR. KIM: Kongsik Kim from Mintz Levin. 7 DR. KAMHOLZ: Scott Kamholz for Patent
8	
9	8 Orymon The University of Chicago
	8 Owner, The University of Chicago. 9 MS POPPINS: Jampifer Pobling for
10	9 MS. ROBBINS: Jennifer Robbins for
10	 MS. ROBBINS: Jennifer Robbins for University of Chicago.
	 MS. ROBBINS: Jennifer Robbins for University of Chicago. JONATHAN BRAUN, M.D., Ph.D.,
11	9 MS. ROBBINS: Jennifer Robbins for 10 University of Chicago. 11 JONATHAN BRAUN, M.D., Ph.D., 12 having been first duly sworn, was thereafter
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1	J. BRAUN	1	J. BRAUN
2	A. Cedars-Sinai Medical Center.	2	A. No, there's no reason that I cannot give
3	Q. You understand I'm questioning you about	3	truthful testimony.
4	your expert testimony in the post-grant proceeding	4	Q. You're an inventor on one or more U.S.
5	PGR2019-00002, Genome and Company vs. The University	5	patents?
6	of Chicago?	6	A. Yes.
7	A. Yes.	7	Q. But you've never been deposed before in a
8	DR. KAMHOLZ: I'm handing the witness a	8	patent case?
9	copy of a document previously marked Exhibit 1002 in	9	A. Correct.
10	this proceeding.	10	Q. And you've never given testimony before in
11	(Exhibit 1002 previously	11	a patent case?
12	marked for identification and	12	A. Correct.
13	referenced herein: Declaration of	13	Q. You understand that you must answer
14	Jonathan Braun, M.D., Ph.D. in	14	questions truthfully and to the best of your ability?
15	Support of Petition for Post Grant	15	A. Yes.
16	Review of U.S. Patent No. 9,855,302)	16	Q. If you don't understand a question, tell
17	Q. This is your expert declaration in this	17	me, and I'll try to rephrase it. Okay?
18	proceeding?	18	A. (Nodding head up and down.)
19	A. Yes.	19	Q. Okay?
20	Q. There's no reason you can't give truthful	20	A. Okay.
21	and complete testimony today?	21	Q. Please make sure that you speak your
22	A. That's a double negative. Could you state	22	answers so that the court reporter can record them.
23	that again, please?	23	Okay?
24	Q. There's no reason that you could not give	24	A. Okay.
25	truthful and complete testimony today?	25	Q. If you answer a question, it means you
	Page 8		Page 9
1	J. BRAUN	1	J. BRAUN
2	understood the question. Understood?	2	deposition is over. That's the easiest way to
3	A. Understood.	3	comply.
4	Q. And you'll wait until I finish asking a	4	MR. BAUER: Object to that. The witness
5	question before you answer it, so the court reporter	5	is not going to talk to counsel during breaks. He
6	can follow us?	6	can be with counsel during his breaks.
7	A. I will.	7	Q. Please tell me if you need a break but not
8	Q. Counsel for Petitioner may make	8	while a question is pending. All right?
9	objections, but you must still answer my questions	9	A. Okay.
10	unless I withdraw the question or if counsel	10	Q. Finally, if a situation arises where the
11	instructs you not to answer. Understood?	11	lawyers need to resolve an issue, I may ask you to
12	A. I understand.	12	step out of the room until the issue is resolved, and
13	Q. The Patent Office rules prohibit you from	13	then we'll invite you back in. Understood?
14	having conversations about the substance of your	14	A. Understood.
15	testimony today with anyone other than me once the	15	Q. All right.
16	deposition has started, and that has already started.	16	DR. KAMHOLZ: I'm giving the witness a
17	Do you understand?	17	copy of a document previously marked Exhibit 1004 in
18	A. I understand.	18	this proceeding.
19	Q. You may not talk with counsel for	19 20	(Exhibit 1004 previously
		20	marked for identification and
20	Petitioner concerning the substance of your testimony		
21	until the deposition is entirely over at the end of	21	referenced herein: Carcinogenesis
21 22	until the deposition is entirely over at the end of the day. Understood?	21 22	referenced herein: Carcinogenesis Vol. 18 Singh Re Bifidobacterium
21	until the deposition is entirely over at the end of	21	referenced herein: Carcinogenesis

	Page 10		Page 11
1		1	
2	J. BRAUN	2	J. BRAUN
3	A. Yes, I do.	3	about six lines up from the bottom, it says there
4	Q. I'll direct your attention to page 834 of this document, which corresponds to Exhibit 2 I'm	4	Singh injected AOM to induce colon tumor genesis, correct?
5	<u> •</u>	5	
6	sorry Exhibit page 2 out of 9. That's page 834 of	6	A. Yes.
7	Exhibit 1004. Are you there?	7	Q. AOM is a carcinogen.
	A. Yes, I am.	8	A. Correct.
8	Q. Do you see in the right-hand column of		Q. AOM goes through a series of chemical
9	that page the heading "Experimental Procedure"?	9 10	changes to produce the ultimate carcinogen, right?
10	A. Yes.		A. Probably.
11	Q. Now Singh fed rats Bifidobacterium longum	11	Q. AOM is converted to methylazoxymethanol,
12	in their diet, correct?	12	abbreviated MAM.
13	A. I see a statement that groups of animals	13	A. I don't recall the pharmacology of AOM.
14	were fed the modified AIN 76-A diet containing 0 (for	14	Q. Turn to page 838 of this exhibit, 1004.
15	controls) 2 percent lyophilized B. longum cultures.	15	That's Exhibit page 6 of 9. In the right-hand
16	Q. Singh fed rats Bifidobacterium longum in	16	column, lines 18 to 20, AOM goes through a series of
17	their diet.	17	chemical changes to produce the ultimate carcinogen,
18	A. I just read what I see.	18	correct?
19	Q. Dr. Braun, Singh fed rats Bifidobacterium	19	A. Yes.
20	longum in their diet, correct?	20	Q. AOM is converted to methylazoxymethanol,
21	A. Yes.	21	abbreviated MAM.
22	Q. And later he injected them with	22	A. That's what's stated in this document.
23	azoxymethane, abbreviated AOM?	23	Q. And AOM is converted ultimately to
24	A. Yes.	24	methyldiazonium ion, which is referred to as the
25	Q. In the left-hand column of that page,	25	ultimate carcinogen.
	Page 12		Page 13
1		1	
1 2	J. BRAUN	1 2	J. BRAUN
	J. BRAUN A. That's what's stated in this article in		J. BRAUN A. There are many carcinogens with sequences
2	J. BRAUN A. That's what's stated in this article in this paragraph.	2	J. BRAUN A. There are many carcinogens with sequences of their biochemistry. You're asking me a very
2	J. BRAUN A. That's what's stated in this article in this paragraph. Q. Turn back to page 837, please. That's	2 3	J. BRAUN A. There are many carcinogens with sequences of their biochemistry. You're asking me a very narrow factual question. I would need to refresh
2 3 4	J. BRAUN A. That's what's stated in this article in this paragraph. Q. Turn back to page 837, please. That's page 5 of 9 of this exhibit. In the right-hand	2 3 4	J. BRAUN A. There are many carcinogens with sequences of their biochemistry. You're asking me a very narrow factual question. I would need to refresh myself from the literature to confidently answer that
2 3 4 5	J. BRAUN A. That's what's stated in this article in this paragraph. Q. Turn back to page 837, please. That's page 5 of 9 of this exhibit. In the right-hand column under the Discussion heading, Singh proposes	2 3 4 5	J. BRAUN A. There are many carcinogens with sequences of their biochemistry. You're asking me a very narrow factual question. I would need to refresh myself from the literature to confidently answer that question.
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	Page 14		Page 15
1	J. BRAUN	1	J. BRAUN
2	that page, around line 10 or so, Singh proposes that	2 n	nechanisms are possible explanations of his results,
3	a possible mechanism of Bifidobacterium longum		ight?
4	inhibition of AOM-induced colon cancer is modulation	4	A. Correct.
5	of microbacterial fecal enzymes that convert the	5	Q. And Singh says that these antitumor
6	procarcinogen, right?	6 n	mechanisms are actually anticarcinogen properties,
7	A. Correct.		correct?
8	Q. And going down a little further around	8	A. Well, the end of that paragraph states
9	line 15, Singh proposes as a possible mechanism of	9 t i	hat Bifido induces an antitumor effect and plays an
10	Bifidobacterium longum inhibition of AOM-induced		mportant role as an immunomodulator in the
11	colon cancer the cellular uptake of carcinogen		ntestines.
12	metabolites, correct?	12	Q. Turn to page 833 of this exhibit, which is
13	A. Correct.	¹³ p	page 1 out of 9. In the right column, starting at
14	Q. And continuing down to around line 27,	_	about line 11, Singh explains that these lactic
15	Singh proposes a possible mechanism of		cultures have been shown to possess anticarcinogenic
16	Bifidobacterium longum inhibition of AOM-induced	¹⁶ p	properties, among other things, correct?
17	colon cancer being that the lactic cultures bind to	17	A. Correct.
18	MAM, thereby minimizing its reabsorption, correct?	18	Q. Now going back to page 838, which is page
19	A. Correct.	¹⁹ 6	of 9 of this exhibit, you agreed that Singh
20	Q. And continuing down to line 33, Singh	20 i	dentifies a number of several possible mechanisms of
21	proposes as a possible mechanism of Bifidobacterium	21 E	Bifidobacterium longum inhibition of AOM-induced
22	longum inhibition of AOM-induced colon cancer to be	22 c	colon cancer a moment ago.
23	that it affects cytochrome P450 activity, correct?	23	A. Yes.
24	A. Correct.	24	Q. Each of these mechanisms that we discussed
25	Q. Singh says that all these proposed	25 t	hat Singh proposes are not directed against the
	Page 16		Page 17
1	Page 16	1	Page 17
1 2	J. BRAUN	1 2 1	J. BRAUN
	J. BRAUN tumor themselves, correct?		J. BRAUN page numbers in the lower right-hand corner.
2	J. BRAUN tumor themselves, correct? A. Correct.	² 1	J. BRAUN page numbers in the lower right-hand corner. In paragraph 122 of your declaration you quote
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