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Filing date: **05/27/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052897
Party	Defendant Galderma Laboratories, Inc.
Correspondence Address	JEFFREY M BECKER HAYNES AND BOONE LLP 2323 VICTORY AVENUE, SUITE 700 DALLAS, TX 75219 UNITED STATES jeff.becker@haynesboone.com, Lisa.Congleton@haynesboone.com
Submission	Motion to Strike
Filer's Name	Lisa Normand
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Signature	/Lisa Normand/
Date	05/27/2014
Attachments	Galderma's Motion to Strike.pdf(141453 bytes) Exhibits_Galderma's Motion to Strike.PDF(5851980 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld
Petitioner,

v.

Galderma Laboratories, Inc.
Registrant.

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Cancellation No.: 92052897

Mark: RESTORADERM

Reg. Nos.: 2,985,751 and 3,394,514

REGISTRANT’S MOTION TO STRIKE

Registrant, Galderma Laboratories, Inc., hereby moves the Trademark Trial and Appeal Board (the “Board”) to strike from the record certain undisclosed, unproduced exhibits, and testimony related thereto, offered through the testimonial deposition of Dr. James Marks on the grounds of inadequate pretrial disclosure under Trademark Rule 2.123(e)(3), 37 CFR § 2.121(e), and failure to produce documents and information requested during discovery under Fed. R. Civ. P. 37(c).

I. INTRODUCTION

Over ten (10) months after the close of discovery, during the testimonial deposition of Dr. James Marks on November 14, 2013, the second testimonial deposition of the day,¹ Petitioner sought to offer two (2) exhibits into evidence that were neither identified in Petitioner’s Pretrial Disclosures nor produced during discovery.² Petitioner’s attempt to introduce these documents and calculated decision not to advise Registrant of his intent to do so until the deposition was underway, in flagrant disregard for both the Federal Rules of Civil Procedure and the Trademark Rules, resulted in precisely the type of unfair surprise and prejudice the Rules were designed to prevent. The Board, therefore, should strike both documents, and all testimony relating to them, from the record.

¹ The first witness deposed on November 14, 2013 was Jeffrey Day, whose deposition began at 1:33 P.M. EST and ended 131 minutes later at 3:44 P.M. EST. Dr. Marks’ deposition began at 4:00 P.M. EST. *See* Ex. A (Normand Decl.) ¶¶ 5, 6.

² Registrant’s counsel promptly objected on the record to Petitioner’s attempt to offer the documents and noted that he was proceeding under protest, pursuant to TBMP rules. *See* Ex. A (Normand Decl.) ¶ 7, and Ex. A.2 thereto at 5:3-4, 7:3. In addition to the issues addressed in the present Motion, Registrant lodged numerous other objections to the admissibility of these documents, which Registrant intends to renew in final briefing.

II. FACTUAL BACKGROUND

Petitioner's Pretrial Disclosures, as served on April 11, 2013 and revised on November 11, 2013, contained no summaries of documents or types of documents to be introduced through depositions. Instead, they contained an extensive and detailed listing of more than one hundred specific documents for potential offer. *See* Ex. A (Normand Decl.) ¶ 4, and Ex. A.1 thereto. Notably, no documents were identified—whether by list, summary, or otherwise—for potential offer through the deposition of Dr. James Marks. The subject matter of Marks' testimony was described as follows: "Dr. Marks has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark." *See id.* Registrant, therefore, was given no notice that Petitioner would attempt to introduce documents beyond those specified in his Pretrial Disclosures, or that he would attempt to introduce any documents through the testimony of Marks.

Pretrial Disclosures notwithstanding, Petitioner did indeed seek to offer two documents during the November 14, 2013 testimonial deposition of Marks, neither of which was produced during discovery or disclosed among Petitioner's eleven-page listing of documents that may be offered through testimony. The first such undisclosed, unproduced document, marked for identification as exhibit T149, is the twenty-five page curriculum vitae of Dr. James Marks. *See* Ex. A (Normand Decl.) ¶ 7 and Ex. A.2.

The second such undisclosed, unproduced document, marked for identification as exhibit T150, comprises the first page of what appears to be a two-page email, portions of which are in Swedish, addressed to "Thomas Sköld" from "Ylva Margareta Skoglösa, Ph.D., Ploughmann & Vingtoft a/s – intellectual property consulting," along with a single page document, which Dr. Marks testified was stapled to the first. *See* Ex. A (Normand Decl.) ¶ 7 and Ex. A.2 at 6:11 – 14. Registrant obtained a certified translation of the email which shows that the notation in the top right corner of document T150 "Sida 1 av 2" translates to "Page 1 of 2." *See* Ex. C. Despite the indication that there should be a second

page to the email, no “Page 2 of 2” was included as a part of T150. The email, which features a notice that the communication is “legally privileged and confidential,” indicates that it originally contained an attachment (or “bifoga” in Swedish) entitled “CLAIMS.doc.” The only inference to be drawn is that the email is from an intellectual property attorney to her client transmitting a draft of proposed patent claims. Yet, the second page of T150 is certainly not that. It is a one-page document, written in English, with a short, non-legal description of the technology. *See* Ex. A (Normand Decl.) ¶¶ 7, 8, and Ex. A.2. Registrant and the Board are left with no context for what this single page is or how it relates to the email, if at all.

Marks testified that, aside from document T150, he had given Petitioner “four or five” other documents found in his files, which were: “[R]elevant to Restoraderm . . . Relevant to what could Restoraderm be, the vehicle to deliver active ingredients, such as perhaps an antifungal or a steroid. And then there was another document, as [he] recollect[ed], on how Restoraderm increased the penetration through the barrier of the skin.” *See* Ex. A (Normand Decl.) ¶ 7, and Ex. A.2 thereto at 20:14 – 21:4. These additional “four or five” documents were not provided to Registrant on November 14, 2013, nor have they been produced to date. *See* Ex. A (Normand Decl.) ¶ 9.

III. ARGUMENT

The Board should strike both documents T149 and T150, as well as the testimony related thereto³, on the grounds of inadequate disclosure under Trademark Rule 2.123(e)(3), 37 CFR § 2.121(e), and failure to produce documents and information requested in discovery under Fed. R. Civ. P. 37(c). *See Carl Karcher Enters. Inc. v. Carl’s Bar & Delicatessen Inc.*, 98 U.S.P.Q.2d 1370, 1372 n.4 (TTAB 2011) (noting a motion to strike both testimony and exhibits is proper when they are beyond the scope of pretrial disclosures).

³ A summary of the portions of Marks’ November 14, 2013 testimony which relates to documents T149 and T150 is provided in Exhibit B attached hereto, along with a copy of the transcript with the lines striking through the matter to be stricken as Exhibit B.1, and a copy of the transcript with the matter to be stricken redacted entirely as Exhibit B.2.

A. Petitioner’s Pretrial Disclosures were inadequate and, as a result, the Board should strike all evidence and testimony not properly disclosed.

Parties are required, pursuant to Trademark Rule 2.121(e), to make Pretrial Disclosures providing “a general summary or list of subjects on which the witness is expected to testify, and *a general summary or list of the types of documents and things which may be introduced as exhibits during the testimony of the witness*” for the purpose of avoiding unfair surprise and harm to the adverse party. *See also* Fed. R. Civ. P. 26(a)(3) (emphasis added); *Carl Karcher Enters. Inc.*, 98 U.S.P.Q.2d at 1372. Petitioner’s Pretrial Disclosures were inadequate in at least two respects.

First, they failed to provide any notice to Registrant of Petitioner’s intent to offer documents T149 and T150 at any point in these proceedings. Even though only general summaries of documents or lists of types of documents are required, Petitioner chose instead to specify precisely which documents he intended to offer as exhibits. *See* Ex. A (Normand Decl.) ¶ 4, and Ex. A.1 thereto. In fact, Petitioner used eleven pages to meticulously detail each of the more than one hundred documents that he may seek to introduce in these proceedings. *See id.* Petitioner provided no summaries of documents or lists of document types that could encompass documents T149 and T150, leaving no room for such an offer. The offer of any documents not explicitly listed, therefore, is beyond the scope of Petitioner’s Pretrial Disclosures.

Second, Petitioner’s Pretrial Disclosures were inadequate because they failed to disclose that *any* documents would be offered specifically through the testimonial deposition of Marks as required by Trademark Rule 2.121(e). *See* Ex. A (Normand Decl.) ¶ 4, and Ex. A.1 thereto. The offer of any documents through Marks’ deposition, therefore, is also beyond the scope of Petitioner’s Pretrial Disclosures.

The remedy for Petitioner’s inadequate Pretrial Disclosures under Trademark Rule 2.121(e) is exclusion of the undisclosed evidence. A party who fails to provide information as required by Trademark Rule 2.121(e) “*is not allowed* to use that information or witness to supply evidence . . . at a

trial, *unless* the failure was substantially justified or is harmless.” Fed. R. Civ. P. 37(c)(1) (emphasis added) (made applicable by Trademark Rule 2.116(a)); *Gen. Council of the Assemblies of God v. Heritage Music Found.*, 97 U.S.P.Q.2d 1890, 1892 (TTAB 2011). Importantly, exclusion of such evidence is automatic and mandatory unless the non-disclosing party can show that failure to disclose the information was substantially justified or harmless. *Rembrandt Vision Techs., LP v. Johnson & Johnson Vision Care, Inc.*, 107 U.S.P.Q.2d 1795, 1798 (Fed. Circ. 2013) (“Failure to comply with Rule 26(a) has significant consequences, including Rule 37’s ‘self-executing sanction.’”). The burden, therefore, is on Petitioner to prove that his undisclosed documents and related testimony should be admitted, despite his failure to comply with the rules. *See id.*

Petitioner’s inadequate Pretrial Disclosures were anything but excusable or harmless. In fact, the circumstances surrounding the offer of documents T149 and T150 were marred by a complete lack of indicia of good faith. Petitioner purposely waited until the deposition of Marks had commenced before alerting Registrant, for the first time, to the fact that he intended to introduce documents, even though Petitioner, Petitioner’s counsel, and Registrant’s counsel had all been present in the same room for hours prior to the commencement of Marks’ deposition. *See* Ex. A (Normand Decl.) ¶¶ 5, 6. Moreover, document T150, portions of which are in Swedish, was not accompanied by a translation, let alone a certified translation as required by the rules. *See* Ex. A (Normand Decl.) ¶ 7, and Ex. A.2 thereto. *See* Fed. R. Evid. 604; *Blue Man Prods. Inc. v. Tarmann*, 75 U.S.P.Q.2d 1811, 1814 (TTAB 2005) (granting applicant’s motion to strike with respect to evidence submitted in a foreign language). Petitioner did not so much as offer to provide an informal translation, which could have given Registrant some basis for questioning the witness regarding the document’s contents, despite the fact that Petitioner is himself a native Swedish speaker.

Petitioner’s calculated decision to wait until the deposition was underway ensured that Registrant had no opportunity to mitigate the unfair surprise and harm by, as examples, generating an informal translation of document T150 for itself, examining and gathering information relating to the documents,

and the like. Petitioner's actions suggest more than a mere failure to mitigate the prejudice that such a late disclosure is bound to cause, but an affirmative attempt to cause it. This is especially so as Petitioner's meticulous and exhaustive listing of more than one hundred documents that Petitioner could possibly offer as evidence during a testimonial deposition was calculated to lead Registrant to believe that only documents appearing on the list would be introduced through testimony. As a result of Petitioner's conduct, a meaningful cross examination was made all but impossible.

To compound the infraction of failing to make adequate Pretrial Disclosures, it appears that Petitioner's untimely disclosure of unproduced documents on November 14, 2013, was not even complete, and remains incomplete to date. According to Petitioner's own witness, 4 or 5 additional, relevant documents were turned over to Petitioner, and Petitioner apparently chose not to produce them. *See* Ex. A (Normand Decl.) ¶ 9. Petitioner's cherry-picking of one of several relevant documents provided by the witness denied Registrant the opportunity to put some context around the documents Petitioner selectively provided.

B. Petitioner failed to produce documents requested and, as a result, the Board should strike all evidence and testimony relating to such unproduced documents.

To make matters worse, the documents and information Petitioner sought to introduce have never been produced to Registrant in response to relevant discovery requests, *see* Ex. A (Normand Decl.) ¶ 8, which is, in and of itself, an independent ground for striking the documents and testimony from the record. *See Panda Travel Inc. v. Resort Option Enters. Inc.*, 94 U.S.P.Q.2d 1789, 1792 (TTAB 2009) (documents not produced until trial stricken from the record); *NASA v. Bully Hill Vineyards Inc.*, 3 U.S.P.Q.2d 1671, 1672 n.3 (TTAB 1987) (excluding from consideration exhibits which fall within the scope of documents requested during discovery but not produced until trial).

It is undeniable that Petitioner was duty-bound to produce documents T149 and T150. The very fact that Petitioner attempted to introduce the documents indicates that he must believe they support his claims and that he should have, thus, affirmatively disclosed them under Fed. R. Civ. P. 26(a)(1).

Regardless, both documents certainly would have been relevant and responsive to multiple of Registrant's discovery requests. As examples, Registrant requested all documents that Petitioner intended to introduce into evidence; communications between Petitioner and third parties regarding RESTORADERM; all documents in any way relating to use of the mark in connection with a "dermatology product"; all documents covering the relevant time period relating to use of RESTORADERM with consulting services; and résumés and employment histories of fact witnesses. For these and other exemplary discovery requests, see Request for Production Nos. 1, 5, 6, 15, 23, 67, 71, 75, 77, and 81. *See* Ex. A (Normand Decl.) ¶ 10, and Ex. A.3 thereto.

Petitioner's continued failure to honor his obligation to supplement disclosures and discovery pursuant to Fed. R. Civ. P. 26(e)(1) is yet another reason why documents T149 and T150, as well as the testimony relating to them, should be stricken from the record. *Great Seats Inc. v. Great Seats Ltd.*, 100 U.S.P.Q.2d 1323 (TTAB 2011) (applying estoppel sanction and excluding evidence where opposer failed to supplement or correct its discovery responses in a timely manner). Following the Marks deposition, Petitioner has taken no steps to correct any of his many failures to comply with the Trademark Rules, or otherwise cure or mitigate the harm caused to Registrant. For instance, Petitioner has not bothered to provide Registrant or the Board with a certified translation of document T150 despite Registrant's objection on the record to the lack of translation. *See* Ex. A (Normand Decl.) ¶ 12. Moreover, Petitioner has not affirmatively supplemented his disclosures or discovery with the additional documents Marks testified he had given to Petitioner's counsel. *See* Ex. A (Normand Decl.) ¶ 9.

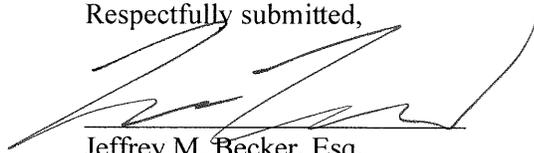
III. CONCLUSION

Despite having failed to identify documents T149 and T150 in his Pretrial Disclosures, or to disclose that *any* documents would be offered during the November 14, 2013 testimonial deposition of Dr. James Marks, Petitioner attempted to offer documents T149 and T150 into evidence; documents which had not previously been produced to Registrant even though they were requested. As a result of Petitioner's defiance of the Federal Rules of Civil Procedure and the Trademark Rules, Registrant was

denied, first, the benefit of even knowing that any documents, let alone which ones, would be offered through Marks' testimony and, second, any ability to mitigate the harm, having never received the documents beforehand and having not received a translation of the foreign-language document. Fairness under these circumstances requires that the documents and related testimony be stricken and excluded from consideration by the Board.

For these reasons, Registrant moves the Board to strike documents T149 and T150, and the testimony of Dr. James Mark relating thereto reflected in Exhibit B, from the record.

Respectfully submitted,



Jeffrey M. Becker, Esq.

Richard D. Rochford, Esq.

Lisa Normand, Esq.

Attorneys for Registrant

HAYNES AND BOONE, LLP

2323 Victory Avenue, Suite 700

Dallas, Texas 75219

Telephone: 214-651-5262

Facsimile: 214-200-0853

lisa.normand@haynesboone.com

Date: May 27, 2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld
Petitioner,

v.

Galderma Laboratories, Inc.
Registrant.

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Cancellation No.: 92052897

Mark: RESTORADERM

Reg. Nos.: 2,985,751 and 3,394,514

EXHIBIT A

Declaration of Lisa Normand in Support of Registrant's Motion to Strike.

Richard Rochford, counsel for Registrant; and myself, Ms. Lisa Normand, counsel for Registrant.

7. Attached as Exhibit A.2 is a true and correct copy of the transcript of the November 14, 2013 Deposition of Marks, including documents marked for identification as “T149” and “T150.”

8. Petitioner did not produce or otherwise disclose to Registrant documents T149 or T150 prior to the commencement of the Deposition of Marks on November 14, 2013.

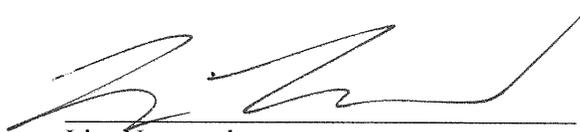
9. Petitioner has not produced or otherwise disclosed to Registrant any of the additional documents Marks testified he provided to Petitioner.

10. Attached as Exhibit A.3 are true and correct copies of: (a) portions of Registrant’s First Request for Production of Documents and Things, which I served on behalf of Registrant on Petitioner via Petitioner’s counsel of record, Mr. Arthur E. Jackson, on January 30, 2012; and (b) portions of Registrant’s Second Request for Production of Documents and Things, which I served on behalf of Registrant on Petitioner via Petitioner’s counsel of record, Mr. Arthur E. Jackson, on January 2, 2013.

11. Following the November 14, 2013 deposition of Marks, Petitioner has not produced any additional documents or information.

12. Petitioner has not served or filed with the Board a translation of the foreign language portions of document T150.

I declare, under penalty of perjury under the laws of the United States of America and 28 U.S.C. § 1746, that the foregoing is true and correct, and that this declaration was executed this 27th day of May 2014 in Dallas, Texas.



Lisa Normand

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld
Petitioner,

v.

Galderma Laboratories, Inc.
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Cancellation No.: 92052897

Mark: RESTORADERM

Reg. Nos.: 2,985,751 and 3,394,514

EXHIBIT A.1

True and correct copies of Petitioner's Pre-Trial Disclosures Under 37 CFR 2.121(e) served on Registrant on April 11, 2013, and Petitioner's Consolidated Pre-Trial Disclosures Under 37 CFR 2.121(e) served on Registrant on November 11, 2013.

MOSER TABOADA

ATTORNEYS AT LAW

April 11, 2013

Via Federal Express

HAYES AND BOONE, LLP
Attn: JEFFREY M. BECKER, LISA N. CONGLETON
2323 VICTORY AVENUE, SUITE 700
DALLAS, TX 75219

Re: Title: RESTORADERM
In the Matter of Registration Nos. 2985751; and 3394514
Dated: August 16, 2005 and March 2008, respectively
Cancellation No. 92052897
Our File: SKD007

Pre-Trial Disclosures Under 37 CFR 2.121(e)

Dear Mr. Becker:

Attached on the following 11 pages are listings of Pretrial disclosures Under 37 CFR 2.212(e). Our updates over the initial disclosure are flagged with bold text. The list of documents that may be introduced as exhibits during the testimony of the witnesses is provided in Parts A, C and G below, as well as in listing of Exhibits to the Petition provided on page 21 of the Petition.

Sincerely,



Arthur E. Jackson, Ph.D., Esq.
Counsel

AEJ:aml
Enclosure

Jeffrey M. Becker
April 11, 2013
Page 2

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

Thomas Sköld

Björnö Gård
761 41 Norrtälje
Sweden
(contact via this office)

Subject Matter: Mr. Sköld has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

Jeff Day, President & CEO, Founder, Quinnova Pharmaceuticals, Inc.

411 S. State Street
3rd Floor
Newtown, PA 18940
(877) 660-6263
(215) 860-6265 (fax)
Email: info@quinnova.com

Subject Matter: Mr. Day has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

Matts Silvander, Ph.D., Ponsus Pharma

Box 61
SE-186 21 Vallentuna
SWEDEN
011-46-7050-82-646
msilvander@yahoo.se

Subject Matter: Mr. Silvander has information on priority of trademark use, on confusion in the use of the trademark, and on continuing use of the trademark.

Andrew Powell, General Counsel

akwpowell@yahoo.com

Believed to be located in the Philadelphia area, but believed to be addressable through the company's main address:

Cornerstone Therapeutics
Cornerstone Therapeutics Inc.
1255 Crescent Green Drive
Suite 250
Cary, NC 27518
(888) 466-6505

Subject Matter: Mr. Powell has information on the expectations of licensing with respect to the 2004 agreement.

Brian Gallagher

bgallagher100@comcast.net

Subject Matter: Mr. Gallagher has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

Prof. James Marks

Chairman, Dept. of Dermatology
Penn State University, College Of Medicine
HU14 500 University Drive
Hershey, PA 17033-0850
jmarks@hmc.psu.edu

Subject Matter: Dr. Marks has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

Rob Ashley

rashly@ashleybiopharm.com

Subject Matter: Mr. Ashley has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004

agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

(ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

Part A

The following documents are being sent by mail dated today, with the documents in the highest class of confidentiality in a separate, appropriately labeled, envelop:

20020214	Jeff Day Email on using Restoraderm in P&G Collaboration	C	1
20031215	Emails on new Agreement terms	C	2
20040126	J Day Email on Scientific Adv Bd Agenda	C	3
20040204	Ruby Ghadial email	C	4
20040204	Slides Attached Ruby Ghadial Email	C	5
20040217	Skold Agmt Clean DRAFT	C	6
20040219	Nancy Broadbent Collagenex sending new Agmt Draft	C	7
20040602	N Broadbent Notes on June 2 meeting on terms (sent with Jun 11 email)	C	8
20040611	Nancy Broadbent of Collagenex on email revised terms	C	9
20040706	Silvander draft paper on Restoraderm	C	10
20040715	Day to Skold Email	C	11
20040908	Ranaxby Email re 20040909 TeleConf	C	12
20040908	CollaGenex-Ranaxby Agenda of 20040909 TeleConf	C	13
20040908	Slides Attached Ranaxby Email	C	14
20041026	G Ford on Galderma Meeting	C	15
20041118	Greg Ford to Skold re Galderma request	C	16
20090316	Art Clapp Email on New Proposal	C	17
20090602	Cassady Email	C	18
20090617	Cassady Email	C	19
20090622	Cassady Email setting Conf. Call	C	20
20091299	Skold Listing of Needed Returns, as sent to Galderma	C	21
20100322	JT Email on Bus. Dev.	TS	22
20100601	RW Email on Bus. Dev.	TS	23
20100721	DeBruyne Email	C	24
20100914	PR Newswire Press Release on Cetaphil Restoraderm	NC	25
20101004	Email on brand confusion	TS	26

20110210 TW Email on Bus. Dev.
20110630 Email to LH

TS 27
TS 28

C – Confidential
TS – Trade Secret/Commercially Sensitive
NC – Non-Confidential

Part B

~~Additionally, Sköld may rely on documentation available on his home computer (and to be forwarded as soon as practical in light of his current travels), as follows:~~

- ~~• From a leading researcher, on source confusion;~~
- ~~• From or to 4 dermatology companies, on business development.~~

~~This documentation will be labeled Trade Secret/Commercially Sensitive.~~

These are believed to be addressed by Parts C and G of this mailing and the documents made available in connection with Petitioner's responses to Registrant's requests for production.

Part C

20010904	Fowler emails on early promotion of Restoraderm Technology	C	101
20011105	Version of Skold document "A theory of the "mode of action" concerning this new technology" that was shown to Collagenex 20011111 20010911	C	102
20020210	Technology description (Mode of Action)	C	103
20021022	Sheila Kennedy email on explaining Restoraderm delivery system to ad agency	C	104
20030000	Epitan Agreement	C	105
20031209	Ashley email on contract revisions for Skold	C	106
20031209	Attachment (contract draft) to 20031209 Ashley email	C	107
20040712	Day/Skold, Day using Skold as Restoraderm consultant	C	108
20040719	Day/Skold, Day asking about Restoraderm pH	C	109
20041004	Kennedy/Powala/Skold emails on use of "Restoraderm"	C	110
20051215	Ford/Skold emails on using Skold for development to 20 companies	C	111
20060227	Zerler email on stability	C	111.1
20060707	Bjorkman/Wiggin letter on lost milestones	C	112
20060717	Tomas Danielson emails indicative of Skold consulting	C	113
20070529	K/Skold emails on Bus. Dev.	TS	114
20070724 20080724	K/Skold emails on timing of non-Galderma promotion of Restoraderm	TS	115
20070801	Ford/Skold emails on meeting at AAD meeting	C	116
20070801	DS recommends Restoraderm to JO of Company M (Bus. Dev.)	TS	117
20070804	BH email on Bus. Dev. #1	TS	118
20070804	Attachment to both 20070804 BH emails (#1 & #2)	TS	119
20070804	BH email on Bus. Dev. #2	TS	120
20070804	Attachment 2 to BH email on Bus. Dev. #2	TS	121
20070804	Attachment 3 to BH email on Bus. Dev. #2	TS	122
20080113	Email introducing JW (Bus. Dev.)	TS	123
20080125	HJ/Skold emails on Bus. Dev.	TS	124
20080129	Wiggin letter to Collagenex	C	125
20080901	Shaimi/Skold: Galderma consulting Skold, plus draft meeting minutes	C	126
20080903	Shaimi/Skold: Galderma consulting Skold	C	127
20080904	Fredon/Skold: Galderma consulting Skold	C	128
20080908	Shaimi/Skold: Galderma consulting Skold, plus final meeting minutes	C	129
20090715	Email from Cassady on marketing nasal analog of Restoraderm	C	130
20091201	Skold to DeBruyne Email on returns, attachment is the 21st item in Part A of the original Initial Disclosures	C	131

20100208	Email from Jim Wallace on Restoraderm returns	C	132
20100303	Skold email to Bus. Dev. Contact, plus attachments	TS	133
20100317	Email from EF on Bus. Dev.	TS	134
20100714	DeBruyne Email on new option agreement	C	135
20110822	F Email on Bus. Dev.	TS	136
20110829	CH Email on Bus. Dev.	TS	136.1
20110926	Email from Konrad Engelhardt on brand confusion	C	137
20111215	JW/Skold emails on Bus. Dev.	TS	138

Part D

Enclosed are or previously enclosed were:

Recollections of Promotional Meetings (with partial redactions)(CONFIDENTIAL)(updated, enclosed)
Recollections of Promotional Meetings, with key to identify redacted companies and persons (TRADE SECRET/COMMERCIALY SENSITIVE)(previously enclosed)

Part E

Previously enclosed were: A listing of RESTORADERM Technology Projects and Products Worked on by Sköld Since 2001. (TRADE SECRET/COMMERCIALY SENSITIVE)

Part F

Publicly available are:

February 12, 2002 Press release from Collagenex, available at http://bioresearchcentral.pharmaloco.com/news_detail/CollaGenex+Licenses+Novel+Dermal+Drug+Delivery+Platform+/3562/index.html.

March 1, 2002 Form 10k filed by Collagenex, especially p. 16, available at www.sec.gov/Archives/edgar/data/1012270/000090310002000094/form10k_123101.txt; or findable by searching "collagenex press releases 2002 restoraderm" at www.google.com

Provided **herewith** are:

The first and/or signature pages for the non-disclosure agreements that have been located in connection with meetings with companies A through M as identified in Part D (Company names and Company employee's names redacted in Confidential version; and provided in a TRADE SECRET/COMMERCIALY SENSITIVE version).

PART D: Recollections of Promotional Meetings

Date	Meeting/ Company Involved (If relevant)	Point Person Organizing for Company
0010911	Johnson & Johnson	Tom Carey
20010911	Collagenex in Newtown PA	Rob Ashley
20010911	Neutrogena/Ortho McNeil -Scheduled/Canceled in part	Jeff Day
20010912	Medicis -Scheduled/Canceled in person, but with teleconference	Biku Patel
20010913	Allergan -Scheduled/Canceled	Jeff Day
20020115	Carib. Derm meeting	
20020300	AAD meeting in New Orleans	
20030100	Carib Derm in Puerto Rico	
20030301	EpiTan	Michael Kleinig
20030721	Skin Medica and Chicago	Diane Goostree
20030800	AAD Chicago	
20040100	Carib Derm in Puerto Rico	
20040801	AAD meeting Washington DC (also presentation to Scientific board)	
20040929	Presentation to Dr W Abromovitz in Dallas	
20040929	Presentation to Art Clapp Galderma in Dallas	Art Clapp
20041104	Ranbaxy US visiting Skold's Lab in Sweden	Beborah McDonald
20050100	Carib Derm in Aruba	
20050200	AAD in New Orleans with Posters at the contact dermatology meeting	
20050900	Coastal Derm Meeting in Napa	
20060100	Carib Derm in Aruba	
20060300	AAD in San Francisco	
20070100	Carib Derm on Grand Cayman	
20070200	AAD in Washington DC	
20070700	AAD in New York	
20070700	presentation to Company A management at the Waldorf Hotel	Party A
20070731	Visit derms (w/o registering) AAD NYC Hilton	
20070801	Meeting with Jeff O'Donnell	
20080100	Carib Derm in St Thomas	
20080128	Rtn from Carib Derm meeting	
20080218	Meet Company B at Sweden	Party B
20090927	LA meetings with Dermatologists	
20090930	Coastal Derm meeting San Diego	
20100000	Presenting and negotiating with Company C in NYC in 2010 and 2011	Party C
20100100	Carib Derm in Puerto Rico	
20100100	Presenting to Company D at Carib Derm	Party D
20100100	Presenting to Company E at Carib Derm	Party E
20100100	Presenting restoraderm to Company F at Carib Derm	Party F
20100200	Presenting to Company F management in New Jersey	Party F
20100300	presenting through e-mail and conf calls to Company G	Party G
20100507	Presenting to Company H in Stockholm	Party H
20110100	Carib Derm in Aruba	
20110900	Coastal Derm in Napa	
20111000	Presenting to Company I in New York	Party I
20111000	Presenting to Company J in New York	Party J
20111100	Presenting to Company K at ?	Party K
20120100	Carib Derm in Puerto Rico	
20120100	Presenting to Company L in Puerto Rico	Party L
20120100	Presenting to Company E	Party E

* A date designation of yyyyymm00 represents that the meeting occurred during the month specified.

** One or more company labeled by pseudonym (e.g., "Company A" or the like) may be the same as a company openly named in pre-2007 time frame, or an affiliate thereof.

CONFIDENTIAL

Part G

2001-08-31	JD on discussions with Medicis	C	201	SKOLD-001837
2001-09-03	TS to R Soldo of BiCoastal Pharma re Teleconf., mentions Ortho McNeil/Neutrogena	C	202	SKOLD-001838
2001-09-04	JD on confirming meetings	C	203	SKOLD-001839
2001-09-05	JD on logistics, Ortho, Collagenex, Medicis, OMP (Direct to Physician sales organization)	C	204	SKOLD-001840
2001-09-06	Logistics on promo trip to Pheonix	C	205	SKOLD-001841
2001-12-06	As identified left	C	206	SKOLD-001842
2002-02-14	JD on P&G opportunity	C	207	SKOLD-001843
2002-02-18	JD about promo opportunities	C	208	SKOLD-001844
2002-02-18	JD about promo opportunities - Connetics	C	209	SKOLD-001845
2002-05-01	RA on promo activity with ATS	C	210	SKOLD-001846
2002-05-03	RA on Antares Pharma promo	C	211	SKOLD-001847
2002-05-07	JD on Bd presentation with new partners discussed	C	212	SKOLD-001848
2002-06-26	RA on melanotan proj. with Epitan	C	213	SKOLD-001849
2005-05-26	Epitan on RD results	C	214	SKOLD-001850
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2003-03-10	JD on promo to Ortho	C	216	SKOLD-001852
2003-03-14	JD on AAD schedule - promo meetings	C	217	SKOLD-001853
2003-05-13	JD responding to comments on BPO formulation development	C	218	SKOLD-001854
2003-07-21	Qs from Skin Medica	C	219	SKOLD-001855
2003-10-03	JD on promo to Cardinal	C	220	SKOLD-001856
2003-10-24	JD TS to contact Novartis at Caribbean Derm.	C	221	SKOLD-001857
2003-11-07	JD consult on Novartis presentation, seek sample for RG includes promo to Galderma	C	222	SKOLD-001858
2004-07-08	JD re meeting with Galderma	C	223	SKOLD-001859
2004-09-27	JD on call to Therapeutics, Inc.	C	224	SKOLD-001860
2004-07-12	JD on call to Therapeutics, Inc.	C	225	SKOLD-001861
2004-08-09	JD on Carib. Derm meetings, TexasDerm promo	C	226	SKOLD-001862
2004-08-17	JD on Ranbaxy meeting	C	227	SKOLD-001863

CONFIDENTIAL

2004-09-10	Zerler seeking input on presentation to Ranbaxy	C	228	SKOLD-001864
2005-03-04	setting up Ranbaxy meeting	C	229	SKOLD-001865
2004-09-28	INyX-Pharma on prior meeting	C	230	SKOLD-001866
2005-06-14	GF consulting on promo	C	231	SKOLD-001867
2007-01-22	GF: about contacts with Pfizer and Jnj	C	232	SKOLD-001868
2007-08-09	TS to Company A	TS	233	SKOLD-001869
2007-12-10	LK on discussion with Company N	TS	234	SKOLD-001870
2008-01-31	TS to Company B (promo)	TS	235	SKOLD-001871
2010-01-30	Company F promo	TS	236	SKOLD-001872
2010-02-10	JF on Company F	TS	237	SKOLD-001873
2010-05-18	Company F promo	TS	238	SKOLD-001874
2010-02-23	TS to Company D, planned teleconf.	TS	239	SKOLD-001875
2010-09-08	Company E on due diligence	TS	240	SKOLD-001876
2010-10-26	Company E on exploring RD	TS	241	SKOLD-001877
2010-11-19	Contact with Company C	TS	242	SKOLD-001878
2010-11-30	TS sending Company C further info on tested products	TS	243	SKOLD-001879
2010-11-29	Company O CDA	TS	244	SKOLD-001880
2011-11-04	Company O on internal eval.	TS	245	SKOLD-001881
2011-05-17	Company P to TS	TS	246	SKOLD-001882
2011-07-26	Company P on setting up further calls	TS	247	SKOLD-001883
2011-06-30	Company P sending CDA	TS	248	SKOLD-001884
2011-08-22	Party Q on promo to Company Q and Company R	TS	249	SKOLD-001885
2011-09-09	MS on Company J CDA	TS	250	SKOLD-001886
2012-01-07	Party S on workplace status	TS	251	SKOLD-001887
2012-01-30	Logistics on meeting Company L	TS	252	SKOLD-001888
2012-04-11	Company T seeking primer on RD	TS	253	SKOLD-001889
2012-10-12	Company U CDA	TS	254	SKOLD-001890
2013-02-01	ID on Company V deal	TS	255	SKOLD-001891
2006-05-10	GF: Colin will discuss "overall relationship and our commitment to Restoraderm"	C	256	SKOLD-001892

2006-05-11	GF follow up on call with Colin	C	257	SKOLD-001893
2008-02-06	Powell on value dimin. Per asserted termination - mentions efforts to divest "the Restoraderm asset"	C	258	SKOLD-001894
2003-05-03	Page of Epitan Agreement with Section Headings 7.10, 7.11, 8.1, 8.2 and 8.3	C	259	SKOLD-001895
	Companies Promoted to During the Collagenex-Skold, Galderma-Skold collaboration (Collagenex-Tied Promotions)	C	260	SKOLD-001896
	Trade Secret/Commercially Sensitive: Company and Party Correlations	TS	261	SKOLD-001897
2010-04-15	TS to Company Z	TS	262	SKOLD-001927
2010-10-11	Company Y to TS	TS	263	SKOLD-001919
	Collagenex Form 10-K or the fiscal year ended December 31, 2001, p. 17		264	SKOLD-001951
2011-10-04	U.S. Patent 8,029,810		265	SKOLD-001952
2002-02-11	Collagenex Press Release		266	SKOLD-001953

MOSER TABOADA

ATTORNEYS AT LAW

November 11, 2013

Via E-Mail

to jeff.becker@haynesboone.com;
and Lisa.Congleton@haynesboone.com

HAYES AND BOONE, LLP
Attn: JEFFREY M. BECKER, LISA N. CONGLETON
2323 VICTORY AVENUE, SUITE 700
DALLAS, TX 75219

Re: Title: RESTORADERM
In the Matter of Registration Nos. 2985751; and 3394514
Dated: August 16, 2005 and March 11, 2008, respectively
Cancellation No. 92052897
Our File: SKD007

Consolidated Pre-Trial Disclosures Under 37 CFR 2.121(e)

Dear Mr. Becker:

Per your request, I have consolidated my previous Pretrial disclosures Under 37 CFR 2.212(e).

On Nov. 5 and April 12, 2013, I added the email string that has been designated SKOLD-001694-95. I enclose for your convenience a copy of a correlation between company pseudonyms used in Part D below (Trade Secret/Commercially Sensitive). I further enclose for your convenience a copy of the recitation of Restoraderm Technology Projects and Products that you have previously labeled TS-000057.

Attached on the following 11 pages are listings of Pretrial disclosures Under 37 CFR 2.212(e). The list of documents that may be introduced as exhibits during the testimony of the witnesses is provided in Parts A, C and G below, as well as in listing of Exhibits to the Petition provided on page 21 of the Petition.

Sincerely,

/Arthur E. Jackson/

Arthur E. Jackson, Ph.D., Esq.
Counsel

AEJ:amd
Enclosures

Jeffrey M. Becker
November 11, 2013
Page 2

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

Thomas Sköld

Björnö Gård
761 41 Norrtälje
Sweden
(contact via this office)

Subject Matter: Mr. Sköld has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

Jeff Day, President & CEO, Founder, Quinnova Pharmaceuticals, Inc.

411 S. State Street
3rd Floor
Newtown, PA 18940
(877) 660-6263
(215) 860-6265 (fax)
Email: info@quinnova.com

Subject Matter: Mr. Day has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

Matts Silvander, Ph.D., Ponsus Pharma

Box 61
SE-186 21 Vallentuna
SWEDEN
011-46-7050-82-646
msilvander@yahoo.se

Subject Matter: Mr. Silvander has information on priority of trademark use, on confusion in the use of the trademark, and on continuing use of the trademark.

Andrew Powell, General Counsel

akwpowell@yahoo.com

Believed to be located in the Philadelphia area, but believed to be addressable through the company's main address:

Cornerstone Therapeutics
Cornerstone Therapeutics Inc.
1255 Crescent Green Drive
Suite 250
Cary, NC 27518
(888) 466-6505

Subject Matter: Mr. Powell has information on the expectations of licensing with respect to the 2004 agreement.

Brian Gallagher

bgallagher100@comcast.net

Subject Matter: Mr. Gallagher has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

Prof. James Marks

Chairman, Dept. of Dermatology
Penn State University, College Of Medicine
HU14 500 University Drive
Hershey, PA 17033-0850
jmarks@hmc.psu.edu

Subject Matter: Dr. Marks has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004 agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

Rob Ashley

rashly@ashleybiopharm.com

Subject Matter: Mr. Ashley has information on priority of trademark use, on the expectations of licensing with respect to the 2002 and 2004

agreements, on confusion in the use of the trademark, and on continuing use of the trademark.

(ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

Part A

The following documents are being sent by mail dated today, with the documents in the highest class of confidentiality in a separate, appropriately labeled, envelop:

20020214	Jeff Day Email on using Restoraderm in P&G Collaboration	C	1
20031215	Emails on new Agreement terms	C	2
20040126	J Day Email on Scientific Adv Bd Agenda	C	3
20040204	Ruby Ghadial email	C	4
20040204	Slides Attached Ruby Ghadial Email	C	5
20040217	Skold Agmt Clean DRAFT	C	6
20040219	Nancy Broadbent Collagenex sending new Agmt Draft	C	7
20040602	N Broadbent Notes on June 2 meeting on terms (sent with Jun 11 email)	C	8
20040611	Nancy Broadbent of Collagenex on email revised terms	C	9
20040706	Silvander draft paper on Restoraderm	C	10
20040715	Day to Skold Email	C	11
20040908	Ranaxby Email re 20040909 TeleConf	C	12
20040908	CollaGenex-Ranaxby Agenda of 20040909 TeleConf	C	13
20040908	Slides Attached Ranaxby Email	C	14
20041026	G Ford on Galderma Meeting	C	15
20041118	Greg Ford to Skold re Galderma request	C	16
20090316	Art Clapp Email on New Proposal	C	17
20090602	Cassady Email	C	18
20090617	Cassady Email	C	19
20090622	Cassady Email setting Conf. Call	C	20
20091299	Skold Listing of Needed Returns, as sent to Galderma	C	21
20100322	JT Email on Bus. Dev.	TS	22
20100601	RW Email on Bus. Dev.	TS	23
20100721	DeBruyne Email	C	24
20100914	PR Newswire Press Release on Cetaphil Restoraderm	NC	25
20101004	Email on brand confusion	TS	26

20110210 TW Email on Bus. Dev.
20110630 Email to LH

TS 27
TS 28

C – Confidential
TS – Trade Secret/Commercially Sensitive
NC – Non-Confidential

Part B

~~Additionally, Sköld may rely on documentation available on his home computer (and to be forwarded as soon as practical in light of his current travels), as follows:~~

- ~~▪ From a leading researcher, on source confusion;~~
- ~~▪ From or to 4 dermatology companies, on business development.~~

~~This documentation will be labeled Trade Secret/Commercially Sensitive.~~

These are believed to be addressed by Parts C and G of this mailing and the documents made available in connection with Petitioner's responses to Registrant's requests for production.

Part C

20010904	Fowler emails on early promotion of Restoraderm Technology	C	101
20011105	Version of Skold document "A theory of the "mode of action" concerning this new technology" that was shown to Collagenex 20010911	C	102
20020210	Technology description (Mode of Action)	C	103
20021022	Sheila Kennedy email on explaining Restoraderm delivery system to ad agency	C	104
20030000	Epitan Agreement	C	105
20031209	Ashley email on contract revisions for Skold	C	106
20031209	Attachment (contract draft) to 20031209 Ashley email	C	107
20040712	Day/Skold, Day using Skold as Restoraderm consultant	C	108
20040719	Day/Skold, Day asking about Restoraderm pH	C	109
20041004	Kennedy/Powala/Skold emails on use of "Restoraderm"	C	110
20051215	Ford/Skold emails on using Skold for development to 20 companies	C	111
20060227	Zerler email on stability	C	111.1
20060707	Bjorkman/Wiggin letter on lost milestones	C	112
20060717	Tomas Danielson emails indicative of Skold consulting	C	113
20070529	K/Skold emails on Bus. Dev.	TS	114
20080724	K/Skold emails on timing of non-Galderma promotion of Restoraderm	TS	115
20070801	Ford/Skold emails on meeting at AAD meeting	C	116
20070801	DS recommends Restoraderm to JO of Company M (Bus. Dev.)	TS	117
20070804	BH email on Bus. Dev. #1	TS	118
20070804	Attachment to both 20070804 BH emails (#1 & #2)	TS	119
20070804	BH email on Bus. Dev. #2	TS	120
20070804	Attachment 2 to BH email on Bus. Dev. #2	TS	121
20070804	Attachment 3 to BH email on Bus. Dev. #2	TS	122
20080113	Email introducing JW (Bus. Dev.)	TS	123
20080125	HJ/Skold emails on Bus. Dev.	TS	124
20080129	Wiggin letter to Collagenex	C	125
20080901	Shaimi/Skold: Galderma consulting Skold, plus draft meeting minutes	C	126
20080903	Shaimi/Skold: Galderma consulting Skold	C	127
20080904	Fredon/Skold: Galderma consulting Skold	C	128
20080908	Shaimi/Skold: Galderma consulting Skold, plus final meeting minutes	C	129
20090715	Email from Cassady on marketing nasal analog of Restoraderm	C	130
20091201	Skold to DeBruyne Email on returns, attachment is the 21st item in Part A of the original Initial Disclosures	C	131

20100208	Email from Jim Wallace on Restoraderm returns	C	132
20100303	Skold email to Bus. Dev. Contact, plus attachments	TS	133
20100317	Email from EF on Bus. Dev.	TS	134
20100714	DeBruyne Email on new option agreement	C	135
20110822	F Email on Bus. Dev.	TS	136
20110829	CH Email on Bus. Dev.	TS	136.1
20110926	Email from Konrad Engelhardt on brand confusion	C	137
20111215	JW/Skold emails on Bus. Dev.	TS	138

Part D

Enclosed are or previously enclosed were:

~~Recollections of Promotional Meetings (with partial redactions)(CONFIDENTIAL)(updated, enclosed)~~

~~Recollections of Promotional Meetings, with key to identify redacted companies and persons (TRADE SECRET/COMMERCIALY SENSITIVE)(previously enclosed)~~

Part E

Previously enclosed were: A listing of RESTORADERM Technology Projects and Products Worked on by Sköld Since 2001. (TRADE SECRET/COMMERCIALY SENSITIVE)

Part F

Publicly available are:

February 12, 2002 Press release from Collagenex, available at http://bioresearchcentral.pharmaloco.com/news_detail/CollaGenex+Licenses+Novel+Dermal+Drug+Delivery+Platform+/3562/index.html.

March 1, 2002 Form 10k filed by Collagenex, especially p. 16, available at www.sec.gov/Archives/edgar/data/1012270/000090310002000094/form10k_123101.txt; or findable by searching "collagenex press releases 2002 restoraderm" at www.google.com

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CONFIDENTIAL

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2011-07-26	Company P on setting up further calls	TS	247	SKOLD-001883
2011-06-30	Company P sending CDA	TS	248	SKOLD-001884
2011-08-22	Party Q on promo to Company Q and Company R	TS	249	SKOLD-001885
2011-09-09	MS on Company J CDA	TS	250	SKOLD-001886
2012-01-07	Party S on workplace status	TS	251	SKOLD-001887
2012-01-30	Logistics on meeting Company L	TS	252	SKOLD-001888
2012-04-11	Company T seeking primer on RD	TS	253	SKOLD-001889
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2013-02-01	JD on Company V deal	TS	255	SKOLD-001891
2006-05-10	GF: Colin will discuss "overall relationship and our commitment to Restoraderm"	C	256	SKOLD-001892

2006-05-11	GF follow up on call with Colin	C	257	SKOLD-001893
2008-02-06	Powell on value dimin. Per asserted termination - mentions efforts to divest "the Restoraderm asset"	C	258	SKOLD-001894
2003-05-03	Page of Epitan Agreement with Section Headings 7.10, 7.11, 8.1, 8.2 and 8.3	C	259	SKOLD-001895
	Companies Promoted to During the Collagenex-Skold, Galderma-Skold collaboration (Collagenex-Tied Promotions)	C	260	SKOLD-001896
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	Collagenex Form 10-K or the fiscal year ended December 31, 2001, p. 17		264	SKOLD-001951
2011-10-04	U.S. Patent 8,029,810		265	SKOLD-001952
2002-02-11	Collagenex Press Release		266	SKOLD-001953

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld
Petitioner,

v.

Galderma Laboratories, Inc.
Registrant.

§
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§

Cancellation No.: 92052897

Mark: RESTORADERM

Reg. Nos.: 2,985,751 and 3,394,514

EXHIBIT A.2

True and correct copy of the transcript of the November 14, 2013 Deposition of Marks, including documents marked for identification as “T149” and “T150.”

1 APPEARANCES:

2 On behalf of Petitioner

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22 BY: LISA N. CONGLETON, ESQ.

23 lisa.congleton@haynesboone.com

24
25 Also Present: Thomas Skold

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* I N D E X *

JAMES G. MARKS, M.D.	PAGE
DIRECT EXAMINATION BY MR. JACKSON	4
CROSS-EXAMINATION BY MR. ROCHFORD	11

* INDEX OF PETITIONER EXHIBITS *

NO.	DESCRIPTION	PAGE
Exhibit T149	James G. Marks, M.D. CV	4
Exhibit T150	Email, 1/11/02, and stapled attachment, from Ylva Margereta Skoglosa	6

- - - -

1
2 JAMES G. MARKS, JR, M.D.,
3 having been first duly sworn, was examined
4 and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. JACKSON:

7 Q. Professor Marks, could you put your full
8 name into the record.

9 A. James G. Marks, Jr.

10 Q. Your residence?

11 A. Hershey, Pennsylvania.

12 MR. JACKSON: I'm going to put this in
13 the record as Skold T149.

14 (Petitioner Exhibit T149 was marked.)

15 BY MR. JACKSON:

16 Q. Professor Marks, is what has been handed
17 to you as Exhibit T149, is that a copy of your
18 curriculum vitae?

19 A. Yes.

20 MR. ROCHFORD: I'll object to these
21 questions on the grounds of relevance, foundation,
22 form. If this is a prelude to some attempt to
23 qualify Dr. Marks as an expert in this case,
24 there's been no notice given under Rule 26 during
25 the required period in this proceeding, and the

1 MARKS

2 corollary TBMP rule, which is 401.3.

3 So we will proceed under protest here as
4 indicated under the TBMP rules and object to any
5 expert testimony given here contrary to the --

6 MR. JACKSON: I don't believe that will
7 be an issue, but we'll see.

8 BY MR. JACKSON:

9 Q. When and where did you meet Thomas
10 Skold, Professor Marks?

11 A. When and where? I believe it was in the
12 late 1990s in Orlando, Florida at an American
13 Academy of Dermatology meeting. So I'd have to
14 look at what year that American Academy of
15 Dermatology meeting actually occurred, but I
16 believe it was the late '90s. It could have been
17 earlier. I don't think it was in this century.

18 Q. Did you perhaps in collaboration
19 organize the original Caribbean Derm meeting?

20 A. Yes.

21 Q. What year was that?

22 A. That was in 2002.

23 Q. I will assume, but ask for your
24 confirmation, that you attended.

25 A. Yes. I did attend.

MARKS

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2 Q. I believe that in the recent period
3 leading up to this deposition that you found in
4 your file a paper that I will have labeled Exhibit
5 T150.

6 (Petitioner Exhibit T150 was marked.)

7 BY MR. JACKSON:

8 Q. That is an email and a stapled
9 attachment with the email being from Ylva
10 Margereta Skoglosa dated 11 January 2002.

11 Now, as you found that document in your
12 files, was it stapled with the original staple as
13 it is in the exhibit?

14 A. Yes.

15 MR. ROCHFORD: Wait a minute. I only
16 have a one page.

17 MR. JACKSON: It's on -- the back page
18 is copied.

19 MR. ROCHFORD: You're saying what is a
20 two-sided document was actually two pages in his
21 files?

22 MR. JACKSON: Yes. Here it is, the
23 original.

24 MR. ROCHFORD: I object to any testimony
25 regarding this document as it has not been

1 MARKS

2 produced previously. There's been ample
3 opportunity. So we proceed under protest.

4 BY MR. JACKSON:

5 Q. What is your inference as to why the
6 document attached that's entitled "Restoraderm, A
7 Product and A Dermal Delivery Technology," what is
8 your inference as to why it is found in your files
9 stapled to a January 2001 document, email?

10 MR. ROCHFORD: First I'll object to the
11 question as I think there was a date misstated,
12 first of all. So I'll object to the form.

13 Beyond that, the question calls for
14 speculation, and there's been no foundation laid
15 as to what this document is. So on all those
16 grounds we'll object.

17 A. It was dated actually 11 January 2002,
18 right before that Caribbean Dermatology meeting,
19 and as I recall, this was sent in preparation for
20 a meeting at the Caribbean Derm to discuss
21 Restoraderm.

22 MR. ROCHFORD: Move to strike as
23 nonresponsive and for all the bases previously
24 indicated as well as to T150 a hearsay objection.

25

MARKS

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2 BY MR. JACKSON:

3 Q. Did that meeting concerning Restoraderm
4 occur at the Restoraderm derm -- sorry -- at the
5 Caribbean Derm meeting of January 2001?

6 A. 2002.

7 Q. My apologies.

8 MR. ROCHFORD: Foundation. Can we start
9 the question over?

10 BY MR. JACKSON:

11 Q. Did the meeting you just spoke of
12 concerning Restoraderm happen at the January 2002
13 Caribbean Derm meeting?

14 A. Yes.

15 MR. ROCHFORD: Object to form,
16 foundation, form, speculation.

17 BY MR. JACKSON:

18 Q. Do you recall scientific presentations
19 concerning Restoraderm technology during the 2004,
20 2005 timeframe?

21 A. 2004, 2005?

22 Q. Yes.

23 A. So as I reviewed my file, I found
24 documents in which the scientific basis for
25 Restoraderm was discussed. And actually I was

1 MARKS

2 involved in evaluating those scientific
3 evaluations. So the answer is yes.

4 MR. ROCHFORD: Object and move to strike
5 on relevance grounds.

6 BY MR. JACKSON:

7 Q. From your interactions with the
8 dermatology community, was it your impression that
9 Restoraderm, the term Restoraderm exclusively
10 referred to the technology that's referenced on
11 the second page of Exhibit T150?

12 MR. ROCHFORD: Objection. Calls for
13 speculation, form, foundation, relevance, hearsay.

14 A. So speaking in the broader or general
15 sense of the general dermatology community, I
16 don't think I can answer that one accurately.
17 Certainly among the individuals that were involved
18 in the scientific evaluation, yes.

19 It's hard for me to generalize to my
20 colleagues in the general dermatology community.

21 MR. ROCHFORD: I move to strike on all
22 those grounds previously enumerated. Also, it
23 calls for expert testimony. We've already noted
24 all the reasons why it's inappropriate here.

25

1 MARKS

2 BY MR. JACKSON:

3 Q. Were you named to the scientific
4 advisory board of Collagenex?

5 A. Yes.

6 Q. Do you know roughly about what
7 timeframe?

8 A. The early part of the decade between
9 2000 and 2010. I didn't look at the contracts
10 because they were renewed annually, but it would
11 be in that -- probably the first half of --
12 between 2000 and 2005 approximately.

13 Q. From that relationship with Collagenex
14 and the interactions you had with Collagenex, was
15 it your impression that the term Restoraderm was
16 exclusively used to refer to Thomas Skold's
17 technology?

18 A. Yes.

19 MR. ROCHFORD: Objection. Calls for
20 speculation, hearsay, foundation, relevance.

21 BY MR. JACKSON:

22 Q. One moment, Dr. Marks. For my part,
23 Dr. Marks, I thank you. There may be questions
24 from the other side. If there are questions from
25 the other side, then I may ask one or two. Well,

1 MARKS

2 I can't speculate how many, but I may ask you more
3 questions.

4 MR. ROCHFORD: Off the record for a
5 moment.

6 (There was a recess in the proceedings.)

7 CROSS-EXAMINATION

8 BY MR. ROCHFORD:

9 Q. Good afternoon, Mr. Marks. We
10 introduced ourselves earlier. Again, for the
11 record, my name is Rich Rochford from Haynes and
12 Boone representing Galderma, with my colleague
13 Lisa Congleton.

14 A couple preliminary comments -- actually
15 only one in this sense that because of the nature
16 of this proceeding, we have to make the objections
17 now on the record, but they don't get ruled on
18 till later. I may ask you some questions that
19 deal with things that we've objected to, and we
20 don't waive any objections by raising those
21 questions now.

22 Mr. Marks, you know Mr. Skold very well,
23 don't you?

24 A. It's Dr. Marks, and the answer is yes.

25 Q. Did I say Mister?

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A. Yes.

Q. I apologize. Do you prefer Doctor, Professor?

A. I think in the circumstances where I'm -- my whole testimony is relevant to my role as a physician/scientist doing clinical research, Doctor is probably more accurate.

Q. Okay. So, Dr. Marks, let's turn to the question now. You're close friends with Mr. Skold?

A. That's correct.

Q. You've known each other for a long time?

A. That's correct.

Q. You've worked together?

A. Correct.

Q. You've given him personal references?

A. Personal references? What do you mean by that?

Q. Haven't you vouched for him in a professional context?

A. I've evaluated the science involved in Restoraderm, but I don't know that that says vouch for him personally. So I think there's perhaps a difference there.

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Q. Let me put the question another way.
Have you ever given him a reference to anybody?

A. I may have. I don't recall.

Q. You've socialized extensively with
Mr. Skold over the years?

A. Yes.

Q. Together with your wives?

A. Correct.

Q. Including him staying at your house in
Hershey?

A. Correct.

Q. Have you stayed at his house in Sweden?

A. Yes.

Q. On the island?

A. Technically speaking, no. It was in a
boat next to the island.

Q. Mr. Skold owns an island and a boat,
doesn't he?

A. The boat we stayed in I don't think he
owned, but my understanding is, yes, he owns a
boat and he does own an island is my understanding
also, but I haven't checked with the Swedish
authorities to be sure.

Q. So you would do whatever you can to help

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Mr. Skold, wouldn't you?

A. As long as it's ethical and legal, yes.

Q. Now, do you know Mr. Jackson?

A. No.

Q. Have you met with him previously?

A. Yes.

Q. When did you meet with him?

A. We met for the first time yesterday evening. We had -- we met yesterday evening.

Q. He showed you this document that he's marked as P150. Did you give that to him at that time?

A. Which one is P150? I have T.

Q. T150, when did you give that to Mr. Jackson?

A. Approximately -- let me see -- approximately four hours ago. So around 12:30, 1:00 today.

Q. How did you come across T150?

A. I went through my files from the interactions I had with Collagenex.

Q. In the context of when you were serving on the Collagenex Scientific Advisory Board?

A. Yes.

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Q. This document T150 came from that file?

A. Yes.

Q. So that covers documents from a period of years in the 2000s; is that correct?

A. Yes. That's my recollection. Again, as I said earlier, I don't know exactly. I assume the first time I was on the advisory board was perhaps in 2001, and it may have lasted to whenever they were sold. And I don't remember exactly when Collagenex was sold.

Q. You don't recall exactly when you joined that advisory board, do you?

A. Not exactly, that's correct.

Q. So it could have been later than 2001?

A. It could have been, yes.

Q. And this document T150, the first page of it, you're not listed as an addressee on this document.

A. That's correct.

Q. In fact, that bears Mr. Skold's header as if it came from his email files, correct?

A. It's certainly his header, and I guess -- I think that's, again, technical. I don't know which files it came from.

MARKS

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2 Q. I'm referring to the bold letters Thomas
3 Skold.

4 A. Absolutely.

5 Q. Is it your understanding that when some
6 document bears that heading, it came from that
7 person's email files?

8 A. I would expect because I don't ever
9 remember reacting to Dr. -- or interacting with
10 Dr. Skoglosa.

11 Q. You haven't dealt with Dr. Skoglosa who
12 is listed here at the bottom of this message?

13 A. I don't remember that, that's correct.

14 Q. You'll note that this first page here
15 listed that it's the Bifoga, which I take might be
16 the subject, says "Claims" at the top. Do you see
17 that?

18 MR. SKOLD: It's the attachment.

19 BY MR. ROCHFORD:

20 Q. "Claims doc," do you see that?

21 A. Yes.

22 Q. And you'll see that Dr. Skoglosa is
23 someone who does intellectual property consulting.
24 Do you see that?

25 A. Now that you point it out, yes.

MARKS

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2 Q. So is it your understanding that this
3 document represented something that was being done
4 in connection with a patent filing somewhere?

5 A. I don't know that.

6 Q. No one said anything to you to suggest
7 what the purpose of this first page was when it
8 was created by Dr. Skoglosa?

9 A. If they did, I don't recall that.
10 Certainly not recently.

11 Q. And you don't know what the Swedish
12 terms were here in terms of Dr. Skoglosa's message
13 to Mr. Skold, do you?

14 A. Absolutely not.

15 Q. You're like me on that one.
16 Then you said that first page was stapled in
17 your file to the second page.

18 A. Exactly.

19 Q. That has Restoraderm at the top; is that
20 correct?

21 A. That's correct.

22 Q. Under that it says, "A product and a
23 dermal delivery technology."

24 A. Correct.

25 Q. Do you see that?

MARKS

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2 A. Yes.

3 Q. Now, there were no Restoraderm -- let me
4 ask you this: You evaluated testing done on
5 formulations of what became known as the
6 Restoraderm formulation in 2004 and 2005; isn't
7 that correct?

8 MR. JACKSON: Beyond the scope of the
9 direct. So an objection.

10 But proceed, Dr. Marks.

11 A. I know I looked at studies and evaluated
12 them and gave my opinion as a dermatologist on
13 those. Now, the exact dates, I'd have to look at
14 documents to say again. That's been quite some
15 time ago. That sounds reasonable that it was
16 after. I know when I looked at through the files,
17 there was some scientific communications after
18 that.

19 BY MR. ROCHFORD:

20 Q. And those were all after early 2002,
21 correct?

22 A. Correct.

23 Q. And all the testing that was done
24 relating to Mr. Skold's formulations were done
25 after early 2002, correct?

MARKS

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2 A. I don't know that because I don't know
3 if there was testing done in Sweden or some place
4 else before.

5 Q. But all the testing that you're aware of
6 was done after early 2002?

7 A. I would say -- I would say that's
8 correct, other than there may have been some
9 discussions relevant to testing which I just don't
10 recall since it's been over a decade ago.

11 Q. But there are none that you can recall
12 that were prior to that time?

13 A. Correct.

14 Q. And to your knowledge, there were no
15 Restoraderm products as of early 2002, were there,
16 sir?

17 A. To my knowledge, there were no
18 Restoraderm products?

19 As of now I don't recall any, but that
20 doesn't mean there might have been some prototypes
21 or, again, something in Europe which I just don't
22 remember.

23 Q. But you don't recall anything from that
24 time period, do you, sir?

25 A. Correct.

MARKS

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2 Q. So it's entirely possible that this
3 document here, this page 2 that refers to a
4 product, came from some time after early 2002;
5 isn't that correct?

6 A. I guess one of the things I would say --
7 and, again, I can't remember the exact details --
8 there could have been a prototype in that meeting
9 in 2002 at Crib Derm. It's not uncommon to --

10 Q. I don't want you guessing, sir. If you
11 know there was something, tell me. Otherwise,
12 please don't guess.

13 A. No.

14 Q. Did you give Mr. Jackson any other
15 documents besides this T150 document?

16 A. Yes.

17 Q. What else did you give him?

18 A. Communications subsequent to that that
19 were in my file relevant to Restoraderm.

20 Q. How many documents?

21 A. Maybe four or five. I'm not positive.

22 Q. Do you recall what those were about?

23 A. Relevant to what could Restoraderm be,
24 the vehicle to deliver active ingredients, such as
25 perhaps an antifungal or a steroid. And then

MARKS

1
2 there was another document, as I recollect, on how
3 Restoraderm increased the penetration through the
4 barrier of the skin.

5 Q. And you're using Restoraderm to describe
6 what you were working on as part of the Collagenex
7 Scientific Advisory Board --

8 A. Correct.

9 Q. -- during that time period?

10 A. Correct.

11 MR. ROCHFORD: That's all I have.

12 MR. JACKSON: That was easy relatively.

13 THE WITNESS: Is that it?

14 MR. JACKSON: Yes.

15 MR. ROCHFORD: Thank you, Doctor.

16 (Whereupon, at 4:26 p.m., the taking of
17 the instant deposition ceased.)
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STATE OF Pennsylvania)

) :ss

COUNTY OF Dauphin)

I, JAMES G. MARKS, M.D., the witness
herein, having read the foregoing
testimony of the pages of this deposition,
do hereby certify it to be a true and
correct transcript, subject to the
corrections, if any, shown on the attached
page.


JAMES G. MARKS, M.D.

Sworn and subscribed to before
me, this 11th day of December
, 2013.

Mary K Forshey
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Mary K. Forshey, Notary Public
Derry Twp., Dauphin County
My Commission Expires May 28, 2014
Member, Pennsylvania Association of Notaries

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COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF DAUPHIN) SS:

C E R T I F I C A T E

I, Ann Medis, Registered Professional Reporter, Certified Livenote Reporter and Notary Public within and for the Commonwealth of Pennsylvania, do hereby certify:

That JAMES G. MARKS, M.D., the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify the inspection, reading and signing of said deposition were not waived by counsel for the respective parties and by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of November, 2013.


Notary Public

INSTRUCTIONS TO WITNESS

1
2
3 Please read your deposition over carefully
4 and make any necessary corrections. You should state
5 the reason in the appropriate space on the errata
6 sheet for any corrections that are made.

7 After doing so, please sign the errata sheet
8 and date it.

9 You are signing same subject to the changes
10 you have noted on the errata sheet, which will be
11 attached to your deposition.

12 It is imperative that you return the original
13 errata sheet to the deposing attorney within thirty
14 (30) days of receipt of the deposition transcript by
15 you. If you fail to do so, the deposition transcript
16 may be deemed to be accurate and may be used in court.

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JAMES G. MARKS, JR., M.D.
CURRICULUM VITAE

Professor of Dermatology, Chair, Department of Dermatology (HU14), Pennsylvania State University College of Medicine, Penn State Milton S. Hershey Medical Center, P.O. Box 850, Hershey, PA 17033-0850, 717-531-8307 Tel, 717-531-6516 Fax, jmarks@psu.edu

Fifty percent of time is providing patient care. The remainder is divided between teaching, clinical research, and administration.

Date of Birth: May 19, 1945
Trenton, New Jersey

Marital Status: Married, One Child

Premedical Education:

1963-1967 Wilkes College, Wilkes-Barre, Pennsylvania, B.A., Biology

Medical Training:

1967-1971 Temple University School of Medicine, Philadelphia, Pennsylvania, MD

1971-1972 Intern, Geisinger Medical Center, Danville, Pennsylvania

1975-1978 Dermatology Resident, Wilford Hall USAF Medical Center,
San Antonio, Texas-Chief Resident; 1978

1978 Jan-Mar Dermatopathology, Armed Forces Institute of Pathology, Washington, DC

Licensure:

Pennsylvania #MD-013368-E

Hospital Appointments:

1972-1975 General Medical Officer, USAF Hospital, Aviano, Italy-Chief of Professional Services; 1974-1975

1978-1980 Chief of Cutaneous Immunology and Staff Dermatologist, Wilford Hall USAF Medical Center

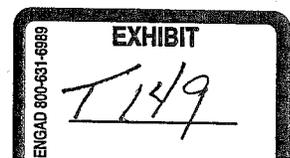
1980-present Staff Dermatologist, The Milton S. Hershey Medical Center of The Pennsylvania State University College of Medicine

Academic Appointments:

1978-1980 Director of Dermatology Residency Curriculum, Wilford Hall USAF Medical Center

1978-1980 Clinical Instructor of Dermatology, University of Texas Health Science Center at San Antonio

1980-1985 Assistant Professor of Medicine, Division of Dermatology, The Milton S. Hershey Medical Center of The Pennsylvania State University College of Medicine



1985-1991	Associate Professor of Medicine, Division of Dermatology, The Milton S. Hershey Medical Center of The Pennsylvania State University College of Medicine
1991-2002	Professor of Medicine, Division of Dermatology, The Milton S. Hershey Medical Center of The Pennsylvania State University College of Medicine
2002-present	Professor of Dermatology, Department of Dermatology, The Milton S. Hershey Medical Center of The Pennsylvania State University College of Medicine
1998-2002	Chief, Division of Dermatology
1997-2002	Director of Dermatology Residency Program
2002-present	Chair, Department of Dermatology

Teaching:

High evaluations by students and residents for teaching in the clinic and lecture room,

Nominated for Teacher of the Year Award

Woman's Dermatology Society or American Contact Dermatitis Society Mentoring Awardees:

Drs. Mary Martini, Bruce Brod, Erin Warshaw, Christen Mowad, Maria Wei, Matthew
Zirwas, and Pamela Scheinman.

Leadership Mentor for James Dinulos, David Adams, and Peter Shalock

Visiting Professor at the University of Pennsylvania, Hahnemann, Johns Hopkins, Jefferson,
Albert Einstein, Wayne State, University of Virginia, Medical College of Virginia,
University of Texas-San Antonio, Uniformed Services University, Brooke Army
Medical Center, Wilford Hall USAF Medical Center, University of California-San
Francisco, New York University, Mayo Clinic Jacksonville and Scottsdale, Henry Ford
Hospital, University of Cincinnati, University of Pittsburgh, Mt. Sinai, Wright State
University, Case Western Reserve, St. Luke's/Roosevelt Medical Center

Lecturer at Scientific Meetings in North America and Europe

Developed Novartis University Preceptorship for Primary Care Physicians which was
adopted nationwide as an innovative educational program-1998-2003

Developed Contact Dermatitis State-of-Art Issues: A seminar which attracts physicians and
industry scientists from Europe, the Orient, and North America-1991-2009

Co-Founder and Co-Director of Caribbean Dermatology Symposium 2002-present

Co-Founder and Co-Director of Coastal Dermatology Symposium 2005-Present

American Academy of Dermatology, Mentor in the "Masters" in Dermatology Academic
Leadership Program, 2007-present

Professional Honors:

1967 Who's Who in American Colleges and Universities

1978-1980 The Air Force Commendation Medal for Meritorious Service

1982 Roerig Pharmaceuticals Challenges in Dermatology Educational
Exhibit Award, American Academy of Dermatology Annual
Meeting, New Orleans, Louisiana

1984 American Academy of Dermatology's Exchange Fellowship Award
to the Annual Meeting of the Italian Society of Dermatology, Rome, Italy

1986	Pennsylvania Professor of Dermatology Lector at The Pennsylvania Academy of Dermatology, Pittsburgh, Pennsylvania
1992-present	Best Doctors in America
1994	Who's Who in Executives and Professionals
1996	Who's Who in North America
1996-1997	Best Doctors in America®: Northeast Region
1997-present	Who's Who in Medicine and Healthcare
1998-2005	Dictionary of International Biography, 27th-32nd editions
1998	United States Patent Award - Co-Inventor - "Use of Cocoa Butter or Partially "Hydrolyzed Cocoa Butter for the Treatment of Burns and Wounds"
1998	United State Patent Award - Co-Inventor - "Use of Hydrolyzed Cocoa Butter for Percutaneous Absorption"
1998-present	Who's Who in America
2000	Outstanding People of the 20th Century, 2nd edition
2001	President, American Contact Dermatitis Society
2001-2006	Who's Who in the East, 29th-34th editions
2002	Outstanding People of the 21st Century
2003 and 2008	American Contact Dermatitis Society Presidential Citation
2003-present	Guide to America's Top Physicians
2003	Alpha Omega Alpha Honor Medical Society
2004	2000 Outstanding People
2004	International Health Professional of the Year
2007	America's Top Dermatologists
2010	Who's Who in Science and Engineering
2013	Steven and Sharon Baron Award

Membership in Professional Organizations:

American Academy of Dermatology
 Society for Investigative Dermatology
 Association of Military Dermatologists
 Dermatology Foundation
 Pennsylvania Academy of Dermatology
 Philadelphia Dermatology Society
 North American Contact Dermatitis Group
 American Contact Dermatitis Society
 European Society of Contact Dermatitis
 Pennsylvania Medical Society

Board Certification:

1972	National Board of Medical Examiners: #115390
1972	Professional Licensure: Pennsylvania #13368E
1978	Specialty Board Certification: Dermatology

Consulting Activities:

Associate Editor of *American Journal of Contact Dermatitis*, 1990 - 1998
Section Editor of *American Journal of Contact Dermatitis*, 1998 - 2000
Editorial Board of *Cutaneous and Ocular Toxicology*, 1991-2001
Reviewer for the *Journal of the American Academy of Dermatology*, *Archives of Dermatology*,
JAMA, *American Journal of Contact Dermatitis*
Dermatology Consultant to the Veterans Administration Hospital, Lebanon, Pennsylvania, 1981
- 2007
Dermatology Consultant to Private Industry

Research Interests:

Contact Dermatitis
Occupational Skin Disease
Investigational New Drugs and Devices

Other Activities:

Board of Directors, Braun Station East Community, 1976
Member of South Hanover Township Lions Club, 1980-present
Vice-President, 1982; President, 1983
Pharmacy and Therapeutics Committee, 1980-1983
Hershey Medical Center Faculty Organization Counselor, 1983-1984
Citizens Advisory Board of South Hanover Elementary School, 1983-1984
Senator, The Pennsylvania State University, 1984-1989
Director of VA Dermatology Clinic 1985-2001
Ambulatory Care Committee, 1987-1988
Divisional Coordinator for the Clinical Science Departments during the
1988 United Way Campaign
Patient Education Video Committee on Contact Dermatitis, American Academy
of Dermatology, 1989
Committee on Patch Test Certification, American Academy of Dermatology, 1988
Committee on Undergraduate Medical Education (CUMED), 1989-1990, 1996-1997
Board of Directors, American Contact Dermatitis Society, 1990-1993
Dermatology Block Coordinator for Introduction to Medicine Course, 1989-1997
Department of Medicine Committee on Promotion and Tenure, 1991-1993, 1997-2002
Committee on Contact Dermatitis, American Academy of Dermatology, 1991-1992
American Contact Dermatitis Society Annual Meeting Committee, 1992-1994
Committee on Contact Dermatitis, American Academy of Allergy and Immunology, 1992-1995
North American Contact Dermatitis Group Study Director 1992-2002
Vice-President, American Contact Dermatitis Society, 1993
Vice-President, Central Penn Chapter of United States Amateur Ballroom Association, 1993
Executive Committee Pennsylvania Academy of Dermatology, 1993
Co-Director, Integument and Musculoskeletal Committee, Department of Medicine, 1996-1997
Director of Hershey Medical Center Dermatology Clinic 1997-2007
Corporate Compliance Oversight Committee Member, 2000-present
Chair, Department of Medicine Finance Committee, 2000

Mid-cycle Review of Obstetrics and Gynecology Residency, 2000
 Search Committee for the Chair of Pediatrics, 2000-2001
 Leader, Cosmetic Ingredient Review Expert Panel, 2001-present
 Clinical Team, 2001-2007, Co-Leader 2001-2003, Leader, 2003-2005
 Chair, Search Committee for the Chair of the Department of Pathology, 2002
 Medical Staff Executive Committee, 2002-present
 Advisory Board, First World Congress on Work-Related and Environmental Allergy & Fourth
 International Symposium on Irritant Contact Dermatitis, 2002; Second World Congress
 on Work-Related and Environmental Allergy, 2007
 Search Committee for the Chair of Ophthalmology, 2004-2005
 Chair, Finance/Audit Committee, American Contact Dermatitis Society, 2004-2005
 Chair, Search Committee for selecting division leaders in Cardio-Thoracic (CT) Surgery and
 Electrophysiology (EP), 2005
 Penn State Hershey Medical Group Board of Governors, 2008-present
 Medical Student Research Committee, 2009-2013
 Leader, Community Service Team, 2009-2013
 Penn State Campaign Cabinet for "For The Future", 2010-present

Publications - Books:

1. Marks, J.G. and Miller, J.J.: *Lookingbill and Marks' Principles of Dermatology*, W.B. Saunders, Philadelphia, 4th edition 2006.
2. Lookingbill, D.P. and Marks, J.G.: *Principles of Dermatology*. W.B. Saunders, Philadelphia, 1st edition 1986. Spanish Edition, Editorial Medica Panamericana, Buenos Aires, 1988, 2nd edition, 1993 - selected by Doody's Rating Service as one of the best health science books published in 1993. 3rd Edition, 2000.
3. Marks, J.G., Elsner, R., and DeLeo, V.A.: *Contact and Occupational Dermatology*. Mosby Year Book, St. Louis, 1st edition 1992; 2nd edition 1997, 3rd edition 2002.
4. Helm, K.F. and Marks, J.G.: *Atlas of Differential Diagnosis in Dermatology*. Churchill Livingstone, London, 1998. (Available in CD-ROM)
5. *Handbook of Contact Dermatitis*. Edited by: Gebhardt, M., Elsner, P., Marks, J.G.: Martin Dunitz, London, 2000.
6. Marks, J.G.: Candidiasis. Section in *Current Therapy in Dermatology 2nd Edition*. Provost, T., Farmer, E., Eds., B.C. Decker, Inc., Philadelphia. pp. 190-191, 1988.
7. Marks, J.G.: Treatment of Contact Dermatitis. Section in *Conn's Current Therapy*, 1988 Edition, Rakel, R.E., Editor; W.B. Saunders, Philadelphia pp. 729-730 and 1989 Edition, pp. 754-755.

8. Lookingbill, D.P. and Marks, J.G.: Principles of Clinical Diagnosis. Chapter in *Dermatologic Medicine and Surgery*, Third Edition, Moschella, S.L. and Hurley, H.J., Editors; W.B. Saunders, Philadelphia, pp. 165-239, 1992.
9. Marks, J.G. and Martini, M.C.: Contact Dermatitis and Contact Urticaria. Chapter in *Principles and Practice of Dermatology, Chapter VI*, Sams, W.M. and Lynch, P.J., Editors; Churchill Livingstone, Inc., New York, 1st edition 1990; 2nd Edition, pp. 419-430, 1996.
10. Zug, K.A., and Marks, J.G.: Plants and Woods. Chapter in *Occupational Skin Disease*, 3rd Edition, Adams, R.M., Editor; W.B. Saunders, Philadelphia, pp. 567-596, 1999.
11. Marks, J.G.: Cosmetics. Chapter in *Occupational Skin Diseases*, 3rd Edition, Adams, R.M., Editor; W.B. Saunders, Philadelphia, pp. 371-388, 1999.
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2. Marks, J.G.: The acute care screening clinic. *Surgeon Comments* 1:12, 1974.
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6. Marks, J.G.: Subcutaneous nodular fat necrosis. *Challenges in Dermatology* 8:3-4, 1983.

Thomas Sköld

Från: "Ylva Margareta Skoglösa" <YMS@pv.dk>
 Till: "Thomas Sköld" <skold@mbox312.swipnet.se>
 Skickat: den 11 januari 2002 11:37
 Bifoga: CLAIMS.doc
 Ämne: krav och text 31307XX1

Bäste Thomas,

Tack för ett väldigt trevligt och kreativt möte.

Jag bifogar som avtalat det mycket oslipade utkast till kraven som vi ställde up i gemensamt arbete i går.

Jag har även spånat lite på en engelsk text om lipid-oordningen:

The vehicle is designed in its choice of and share of lipids to resemble the normal lipid organisation of the stratum corneum. Thus the administered vehicle will easily penetrate the lipid bilayer of the skin and in doing so create a temporary and reversible state of enhanced atrophy among the bilayer. The enhanced atrophy in itself should then give rise to a) enhanced energy levels, said energy could promote active transport of the to-be-carried substances into the skin, and/or b) naturally and reversibly occurring holes and disorganised patches in the lipid bilayer, through which the active substances could then pass more easily. It is very well feasible that the temporary disarray in the lipid bilayer will temporarily break up the organised structure of the bilayer and create micelles of lipids with areas between them/ surrounding them through which lipophobic/hydrophil substances and compositions can enter the stratum corneum. As the content of the vehicle resembles the natural lipid build-up of the skin, the so introduced new lipids will after a short span of creative chaos easily blend in with the natural lipid building stones of the lipid bilayer and thus not permanently damage the skin.

Som en sista punkt för denna gången, ber jag dig att du skickar oss den adress som du vill att vi skall sända posten till.

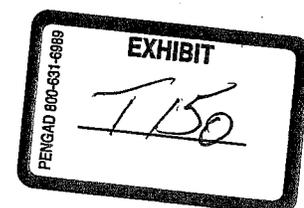
Ha det så skönt i solen.
 Med glada hälsningar,

Ylva

① NOTE
 ② TWIN LAB

TILL TURNER
 001 801 553 7075

<<CLAIMS.doc>>
 Ylva Skoglösa, Ph.D.
 Plougmann & Vingtoft a/s
 - intellectual property consulting
 Tel. +45 33 63 93 00
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 e-mail: yms@pv.dk



NOTICE: This e-mail message and all attachments transmitted with it may contain legally privileged and confidential information intended solely for

Restoraderm

A product and a dermal delivery technology

Restoraderm is a novel dermal drug delivery vehicle formulated to provide unique skin barrier restoration properties. It is a water-based product containing lipids similar to those which make up the normal skin barrier (stratum corneum) – palmitic acid, cholesterol and ceramide 3. Uniquely, Restoraderm also contains mevalonic acid, which has been shown to promote *in situ* cholesterol synthesis by the skin. By promoting synthesis of cholesterol, the lipid content of the vehicle can be maintained in the 6 – 13% range and the water content 70 – 80%, thereby enabling the skin to “breathe” normally, enhancing the ability to restore normal barrier function. The formulation can be used alone to stimulate skin barrier restoration, or can be enhanced by the addition of certain active drug substances, which may be dissolved in appropriate solvents such as propylene glycol or ethanol.

Typical dermal drug delivery vehicles have an alcohol or petrolatum base, with little consideration given to the biological properties of the vehicle itself. In contrast the Restoraderm technology is designed not only to efficiently deliver active ingredients to or through the skin but also to enhance their efficacy by stimulating restoration of normal skin barrier function. This benefit arises not only due to the delivery of lipids in the vehicle itself but also as a result of the stimulation of cholesterol biosynthesis by the skin.

The lipids in the Restoraderm formulation have been specifically designed to contribute to the restoration of the normal barrier without the risk of a significant degree of barrier disruption. For example, emulsified fatty acids can inherit certain detergent properties if their structure is significantly altered from those in the normal skin. These detergent properties can lead to disruption of normal barrier function counteracting the potential benefit of the vehicle technology. Restoraderm lipids are designed to eliminate these unwanted side effects.

The Restoraderm vehicle is designed to enhance the penetration of active ingredients into the normal stratum corneum. Whereas in other formulations the enhancement of penetration arises due to disruption of the normal barrier (with concomitant physiological consequences) the Restoraderm technology is designed to enhance penetration while leaving the normal barrier intact (or even functionally enhanced). This effect is achieved by careful selection of the lipids of the vehicle, which blend with the normal lipids present in the stratum corneum, resulting in a temporary and reversible disruption and enhanced penetration, followed by a rapid return to normal barrier function.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld
Petitioner,

v.

Galderma Laboratories, Inc.
Registrant.

§
§
§
§
§
§
§
§

Cancellation No.: 92052897

Mark: RESTORADERM

Reg. Nos.: 2,985,751 and 3,394,514

EXHIBIT A.3

True and correct copy of: (a) portions of Registrant's First Request for Production of Documents and Things, served on behalf of Registrant on Petitioner via Petitioner's counsel of record, Mr. Arthur E. Jackson, on January 30, 2012; and (b) portions of Registrant's Second Request for Production of Documents and Things served on behalf of Registrant on Petitioner via Petitioner's counsel of record, Mr. Arthur E. Jackson, on January 2, 2013.

DOCUMENTS AND THINGS TO BE PRODUCED

Request for production No. 1:

All documents and things identified in *Petitioner's Initial Disclosures* served in connection with this Cancellation not already produced.

Request for production No. 5:

All documents Petitioner intends to introduce into evidence in this proceeding.

Request for production No. 6:

All documents upon which Petitioner intends to rely during the testimony period in support of Petitioner's case.

Request for production No. 10:

For each fact witness Petitioner intends to call in this proceeding, please produce the following:

- (a) A resume or employment history;
- (b) A written report containing a complete statement of all of his or her opinions and conclusions relevant to this case and the grounds therefor; and
- (c) Other information considered by the witness in forming his or her opinions.

Request for production No. 15:

All documents and things relating to communications between Petitioner and any third party, including consumers, concerning products and services on which Petitioner uses, or has used, the term RESTORADERM in commerce.

Request for production No. 23:

All documents and things showing use of the term RESTORADERM in commerce by Petitioner in connection with consulting services for a dermatology product prior to February 11, 2002, and between then and February 28, 2002.

Request for production No. 60:

All documents and communications that support or relate to Petitioner's allegation in paragraph 42 of the Amended Petition for Cancellation that dermatologists approached Petitioner at a lecture in January 2011 "wonder[ing] why Petitioner had changed the composition and dropped the basic idea behind" the Technology.

Request for production No. 61:

All documents that support or relate to Petitioner's allegation in paragraph 46 of the Amended Petition for Cancellation that "the RESTORADERM services," as that term is used therein, are identified as associated with Petitioner.

Request for production No. 62:

All documents and communications relating to any instances of actual confusion as between Petitioner and Registrant as to the source of either party's goods or services.

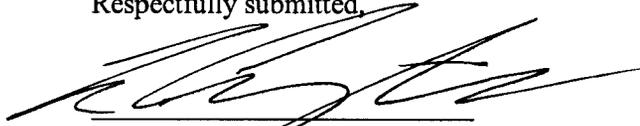
Request for production No. 63:

All documents that support or relate to Petitioner's allegations in paragraph 56 of the Amended Petition for Cancellation.

Request for production No. 64:

All drafts and execution copies of the 2002 Agreement and the 2004 Agreement.

Respectfully submitted,



Lisa N. Congleton, Esq.

Jeffrey M. Becker, Esq.

Attorneys for Registrant

HAYNES AND BOONE, LLP

2323 Victory Avenue, Suite 700

Dallas, Texas 75219

Telephone: 214-651-5262

Facsimile: 214-200-0765

lisa.congleton@haynesboone.com

D-2017802_3.DOC

Date: January 30, 2012

DOCUMENTS AND THINGS TO BE PRODUCED

Request for Production No. 67:

To the extent Petitioner's Response to Registrant's Request for Admission No. 195 was anything other than an unqualified admission, all documents or things in Petitioner's possession, custody, or control upon which Petitioner may rely to establish Petitioner's use of the mark RESTORADERM in any manner prior to February 28, 2002, that Petitioner has not yet produced to Registrant.

Request for Production No. 71:

All documents and things in any way relating to each person in the U.S. to whom Petitioner in any way disclosed, communicated, displayed, or presented the mark RESTORADERM prior to February 28, 2002.

Request for Production No. 75:

All documents and things in any way relating to the Technology that existed prior to February 28, 2002, that were in any way associated with the mark RESTORADERM.

Request for Production No. 77:

All documents and things in any way relating to Petitioner's contention that he used the mark RESTORADERM anywhere in any way prior to February 28, 2002.

Request for Production No. 81:

All documents and things in any way relating to the “dermatology product” in connection with which Petitioner alleges he owns prior rights in the mark RESTORADERM, as stated in paragraph 44 of the Amended Petition.

Request for Production No. 92:

All documents and things in any way evidencing that the samples referred to in Petitioner's Response to Registrant's Interrogatory No. 6 were actually sent and received.

Request for Production No. 93:

All documents and things in any way evidencing that the samples referred to in Petitioner's Response to Registrant's Interrogatory No. 6 bore the mark RESTORADERM.

Request for Production No. 94:

All copies of the slide presentations referred to in paragraph 36 of the Amended Petition that were made to pharmaceutical companies in the U.S. prior to February 28, 2002.

Respectfully submitted,



Jeffrey M. Becker, Esq.
Lisa N. Congleton, Esq.
Attorneys for Registrant
HAYNES AND BOONE, LLP
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Dallas, Texas 75219
Telephone: 214-651-5262
Facsimile: 214-200-0765
jeff.becker@haynesboone.com
lisa.congleton@haynesboone.com

Date: January 2, 2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld	§	Cancellation No.: 92052897
Petitioner,	§	
v.	§	Mark: RESTORADERM
Galderma Laboratories, Inc.	§	
Registrant.	§	
	§	Reg. Nos.: 2,985,751 and 3,394,514
	§	
	§	

EXHIBIT B

**Listing of Page and Line Numbers from the November 14, 2013 Deposition of Marks Containing
Matter to be Stricken.**

The following page and line numbers correspond to material in the Deposition of Marks that should be stricken.

Page Number	Line Numbers
3	6-10
4	12-25
5	2-7
6	2-25
7	2-25
9	7-25
14	11-25
15	2-25
16	2-25
17	2-25
18	2
20	2-25
21	2-4

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld	§	Cancellation No.: 92052897
Petitioner,	§	
v.	§	Mark: RESTORADERM
Galderma Laboratories, Inc.	§	
Registrant.	§	Reg. Nos.: 2,985,751 and 3,394,514
	§	
	§	

EXHIBIT B.1

**Transcript of the November 14, 2013 Deposition of Marks Bearing Lines Striking Through the
Matter to be Stricken.**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration Nos. 2985751; and 3394514
Dated: August 16, 2005 & March 11, 2008, Respectively

_____)	
Thomas Skold,)	
)	
Petitioner,)	
)	Cancellation No. 92052897
v.)	
)	
Galderma Laboratories, Inc.,)	
)	
Registrant.)	
_____)	

DEPOSITION OF JAMES G. MARKS, M.D.,
a witness herein, called for examination, taken by
and before Ann Medis, Registered Professional
Reporter and Notary Public in and for the
Commonwealth of Pennsylvania, at the Penn State
Hershey Medical Center, University Physician
Center, 4th Floor Conference Room, 500 University
Drive, Hershey, Pennsylvania 17033, on Thursday,
November 14, 2013, commencing at 4:00 p.m.
Job No. 32507

1 APPEARANCES:

2 On behalf of Petitioner

3 MOSER TABOADA

4 1030 Broad Street, Suite 203

5 Shrewsbury, New Jersey 07702

6 732.917.6323

7 BY: ARTHUR E. JACKSON, ESQ.

8 ajackson@mtiplaw.com

9
10 On behalf of Registrant

11 HAYNES AND BOONE, LLP

12 30 Rockefeller Plaza, 26th Floor

13 New York, New York 10112

14 212.659.4984

15 BY: RICHARD D. ROCHFORD, ESQ.

16 richard.rochford@haynesboone.com

17
18 HAYNES AND BOONE, LLP

19 2323 Victory Avenue, Suite 700

20 Dallas, Texas 75219

21 214.651.5262

22 BY: LISA N. CONGLETON, ESQ.

23 lisa.congleton@haynesboone.com

24
25 Also Present: Thomas Skold

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* I N D E X *

JAMES G. MARKS, M.D.	PAGE
DIRECT EXAMINATION BY MR. JACKSON	4
CROSS-EXAMINATION BY MR. ROCHFORD	11

~~* INDEX OF PETITIONER EXHIBITS *~~

NO.	DESCRIPTION	PAGE
Exhibit T149	James G. Marks, M.D. CV	4
Exhibit T150	Email, 1/11/02, and stapled attachment, from Ylva Margereta Skoglosa	6

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JAMES G. MARKS, JR, M.D.,
having been first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. JACKSON:

Q. Professor Marks, could you put your full
name into the record.

A. James G. Marks, Jr.

Q. Your residence?

A. Hershey, Pennsylvania.

~~MR. JACKSON: I'm going to put this in
the record as Skold T149.~~

~~(Petitioner Exhibit T149 was marked.)~~

~~BY MR. JACKSON:~~

~~Q. Professor Marks, is what has been handed
to you as Exhibit T149, is that a copy of your
curriculum vitae?~~

~~A. Yes.~~

~~MR. ROCHEFORD: I'll object to these
questions on the grounds of relevance, foundation,
form. If this is a prelude to some attempt to
qualify Dr. Marks as an expert in this case,
there's been no notice given under Rule 26 during
the required period in this proceeding, and the~~

MARKS

~~corollary TBMP rule, which is 401.3.~~

~~So we will proceed under protest here as indicated under the TBMP rules and object to any expert testimony given here contrary to the --~~

~~MR. JACKSON: I don't believe that will be an issue, but we'll see.~~

BY MR. JACKSON:

Q. When and where did you meet Thomas Skold, Professor Marks?

A. When and where? I believe it was in the late 1990s in Orlando, Florida at an American Academy of Dermatology meeting. So I'd have to look at what year that American Academy of Dermatology meeting actually occurred, but I believe it was the late '90s. It could have been earlier. I don't think it was in this century.

Q. Did you perhaps in collaboration organize the original Caribbean Derm meeting?

A. Yes.

Q. What year was that?

A. That was in 2002.

Q. I will assume, but ask for your confirmation, that you attended.

A. Yes. I did attend.

MARKS

1
2 Q. ~~I believe that in the recent period~~
3 ~~leading up to this deposition that you found in~~
4 ~~your file a paper that I will have labeled Exhibit~~
5 ~~T150.~~

6 ~~(Petitioner Exhibit T150 was marked.)~~

7 BY MR. JACKSON:

8 Q. ~~That is an email and a stapled~~
9 ~~attachment with the email being from Ylva~~
10 ~~Margereta Skoglosa dated 11 January 2002.~~

11 ~~Now, as you found that document in your~~
12 ~~files, was it stapled with the original staple as~~
13 ~~it is in the exhibit?~~

14 A. ~~Yes.~~

15 MR. ROCHFORD: ~~Wait a minute. I only~~
16 ~~have a one page.~~

17 MR. JACKSON: ~~It's on -- the back page~~
18 ~~is copied.~~

19 MR. ROCHFORD: ~~You're saying what is a~~
20 ~~two-sided document was actually two pages in his~~
21 ~~files?~~

22 MR. JACKSON: ~~Yes. Here it is, the~~
23 ~~original.~~

24 MR. ROCHFORD: ~~I object to any testimony~~
25 ~~regarding this document as it has not been~~

1 MARKS

2 ~~produced previously. There's been ample~~
3 ~~opportunity. So we proceed under protest.~~

4 ~~BY MR. JACKSON:~~

5 ~~Q. What is your inference as to why the~~
6 ~~document attached that's entitled "Restoraderm, A~~
7 ~~Product and A Dermal Delivery Technology," what is~~
8 ~~your inference as to why it is found in your files~~
9 ~~stapled to a January 2001 document, email?~~

10 ~~MR. ROCHFORD: First I'll object to the~~
11 ~~question as I think there was a date misstated,~~
12 ~~first of all. So I'll object to the form.~~

13 ~~Beyond that, the question calls for~~
14 ~~speculation, and there's been no foundation laid~~
15 ~~as to what this document is. So on all those~~
16 ~~grounds we'll object.~~

17 ~~A. It was dated actually 11 January 2002,~~
18 ~~right before that Caribbean Dermatology meeting,~~
19 ~~and as I recall, this was sent in preparation for~~
20 ~~a meeting at the Caribbean Derm to discuss~~
21 ~~Restoraderm.~~

22 ~~MR. ROCHFORD: Move to strike as~~
23 ~~nonresponsive and for all the bases previously~~
24 ~~indicated as well as to T150 a hearsay objection.~~

25

MARKS

1
2 BY MR. JACKSON:

3 Q. Did that meeting concerning Restoraderm
4 occur at the Restoraderm derm -- sorry -- at the
5 Caribbean Derm meeting of January 2001?

6 A. 2002.

7 Q. My apologies.

8 MR. ROCHFORD: Foundation. Can we start
9 the question over?

10 BY MR. JACKSON:

11 Q. Did the meeting you just spoke of
12 concerning Restoraderm happen at the January 2002
13 Caribbean Derm meeting?

14 A. Yes.

15 MR. ROCHFORD: Object to form,
16 foundation, form, speculation.

17 BY MR. JACKSON:

18 Q. Do you recall scientific presentations
19 concerning Restoraderm technology during the 2004,
20 2005 timeframe?

21 A. 2004, 2005?

22 Q. Yes.

23 A. So as I reviewed my file, I found
24 documents in which the scientific basis for
25 Restoraderm was discussed. And actually I was

1 MARKS

2 involved in evaluating those scientific
3 evaluations. So the answer is yes.

4 MR. ROCHFORD: Object and move to strike
5 on relevance grounds.

6 BY MR. JACKSON:

7 ~~Q. From your interactions with the~~
8 ~~dermatology community, was it your impression that~~
9 ~~Restoraderm, the term Restoraderm exclusively~~
10 ~~referred to the technology that's referenced on~~
11 ~~the second page of Exhibit T150?~~

12 ~~MR. ROCHFORD: Objection. Calls for~~
13 ~~speculation, form, foundation, relevance, hearsay.~~

14 ~~A. So speaking in the broader or general~~
15 ~~sense of the general dermatology community, I~~
16 ~~don't think I can answer that one accurately.~~
17 ~~Certainly among the individuals that were involved~~
18 ~~in the scientific evaluation, yes.~~

19 ~~It's hard for me to generalize to my~~
20 ~~colleagues in the general dermatology community.~~

21 ~~MR. ROCHFORD: I move to strike on all~~
22 ~~those grounds previously enumerated. Also, it~~
23 ~~calls for expert testimony. We've already noted~~
24 ~~all the reasons why it's inappropriate here.~~

25

1 MARKS

2 BY MR. JACKSON:

3 Q. Were you named to the scientific
4 advisory board of Collagenex?

5 A. Yes.

6 Q. Do you know roughly about what
7 timeframe?

8 A. The early part of the decade between
9 2000 and 2010. I didn't look at the contracts
10 because they were renewed annually, but it would
11 be in that -- probably the first half of --
12 between 2000 and 2005 approximately.

13 Q. From that relationship with Collagenex
14 and the interactions you had with Collagenex, was
15 it your impression that the term Restoraderm was
16 exclusively used to refer to Thomas Skold's
17 technology?

18 A. Yes.

19 MR. ROCHFORD: Objection. Calls for
20 speculation, hearsay, foundation, relevance.

21 BY MR. JACKSON:

22 Q. One moment, Dr. Marks. For my part,
23 Dr. Marks, I thank you. There may be questions
24 from the other side. If there are questions from
25 the other side, then I may ask one or two. Well,

1 MARKS

2 I can't speculate how many, but I may ask you more
3 questions.

4 MR. ROCHFORD: Off the record for a
5 moment.

6 (There was a recess in the proceedings.)

7 CROSS-EXAMINATION

8 BY MR. ROCHFORD:

9 Q. Good afternoon, Mr. Marks. We
10 introduced ourselves earlier. Again, for the
11 record, my name is Rich Rochford from Haynes and
12 Boone representing Galderma, with my colleague
13 Lisa Congleton.

14 A couple preliminary comments -- actually
15 only one in this sense that because of the nature
16 of this proceeding, we have to make the objections
17 now on the record, but they don't get ruled on
18 till later. I may ask you some questions that
19 deal with things that we've objected to, and we
20 don't waive any objections by raising those
21 questions now.

22 Mr. Marks, you know Mr. Skold very well,
23 don't you?

24 A. It's Dr. Marks, and the answer is yes.

25 Q. Did I say Mister?

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A. Yes.

Q. I apologize. Do you prefer Doctor, Professor?

A. I think in the circumstances where I'm -- my whole testimony is relevant to my role as a physician/scientist doing clinical research, Doctor is probably more accurate.

Q. Okay. So, Dr. Marks, let's turn to the question now. You're close friends with Mr. Skold?

A. That's correct.

Q. You've known each other for a long time?

A. That's correct.

Q. You've worked together?

A. Correct.

Q. You've given him personal references?

A. Personal references? What do you mean by that?

Q. Haven't you vouched for him in a professional context?

A. I've evaluated the science involved in Restoraderm, but I don't know that that says vouch for him personally. So I think there's perhaps a difference there.

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Q. Let me put the question another way.

Have you ever given him a reference to anybody?

A. I may have. I don't recall.

Q. You've socialized extensively with
Mr. Skold over the years?

A. Yes.

Q. Together with your wives?

A. Correct.

Q. Including him staying at your house in
Hershey?

A. Correct.

Q. Have you stayed at his house in Sweden?

A. Yes.

Q. On the island?

A. Technically speaking, no. It was in a
boat next to the island.

Q. Mr. Skold owns an island and a boat,
doesn't he?

A. The boat we stayed in I don't think he
owned, but my understanding is, yes, he owns a
boat and he does own an island is my understanding
also, but I haven't checked with the Swedish
authorities to be sure.

Q. So you would do whatever you can to help

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Mr. Skold, wouldn't you?

A. As long as it's ethical and legal, yes.

Q. Now, do you know Mr. Jackson?

A. No.

Q. Have you met with him previously?

A. Yes.

Q. When did you meet with him?

A. We met for the first time yesterday evening. We had -- we met yesterday evening.

~~Q. He showed you this document that he's marked as P150. Did you give that to him at that time?~~

~~A. Which one is P150? I have T.~~

~~Q. T150, when did you give that to Mr. Jackson?~~

~~A. Approximately -- let me see -- approximately four hours ago. So around 12:30, 1:00 today.~~

~~Q. How did you come across T150?~~

~~A. I went through my files from the interactions I had with Collagenex.~~

~~Q. In the context of when you were serving on the Collagenex Scientific Advisory Board?~~

~~A. Yes.~~

MARKS

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~~Q. This document T150 came from that file?~~

~~A. Yes.~~

~~Q. So that covers documents from a period of years in the 2000s; is that correct?~~

~~A. Yes. That's my recollection. Again, as I said earlier, I don't know exactly. I assume the first time I was on the advisory board was perhaps in 2001, and it may have lasted to whenever they were sold. And I don't remember exactly when Collagenex was sold.~~

~~Q. You don't recall exactly when you joined that advisory board, do you?~~

~~A. Not exactly, that's correct.~~

~~Q. So it could have been later than 2001?~~

~~A. It could have been, yes.~~

~~Q. And this document T150, the first page of it, you're not listed as an addressee on this document.~~

~~A. That's correct.~~

~~Q. In fact, that bears Mr. Skold's header as if it came from his email files, correct?~~

~~A. It's certainly his header, and I guess -- I think that's, again, technical. I don't know which files it came from.~~

MARKS

1
2 Q. ~~I'm referring to the bold letters Thomas~~
3 ~~Skold.~~

4 A. ~~Absolutely.~~

5 Q. ~~Is it your understanding that when some~~
6 ~~document bears that heading, it came from that~~
7 ~~person's email files?~~

8 A. ~~I would expect because I don't ever~~
9 ~~remember reacting to Dr. -- or interacting with~~
10 ~~Dr. Skoglosa.~~

11 Q. ~~You haven't dealt with Dr. Skoglosa who~~
12 ~~is listed here at the bottom of this message?~~

13 A. ~~I don't remember that, that's correct.~~

14 Q. ~~You'll note that this first page here~~
15 ~~listed that it's the Bifoga, which I take might be~~
16 ~~the subject, says "Claims" at the top. Do you see~~
17 ~~that?~~

18 MR. SKOLD: ~~It's the attachment.~~

19 BY MR. ROCHFORD:

20 Q. ~~"Claims doc," do you see that?~~

21 A. ~~Yes.~~

22 Q. ~~And you'll see that Dr. Skoglosa is~~
23 ~~someone who does intellectual property consulting.~~
24 ~~Do you see that?~~

25 A. ~~Now that you point it out, yes.~~

MARKS

1
2 Q. ~~So is it your understanding that this~~
3 ~~document represented something that was being done~~
4 ~~in connection with a patent filing somewhere?~~

5 A. ~~I don't know that.~~

6 Q. ~~No one said anything to you to suggest~~
7 ~~what the purpose of this first page was when it~~
8 ~~was created by Dr. Skoglosa?~~

9 A. ~~If they did, I don't recall that.~~
10 ~~Certainly not recently.~~

11 Q. ~~And you don't know what the Swedish~~
12 ~~terms were here in terms of Dr. Skoglosa's message~~
13 ~~to Mr. Skold, do you?~~

14 A. ~~Absolutely not.~~

15 Q. ~~You're like me on that one.~~
16 ~~Then you said that first page was stapled in~~
17 ~~your file to the second page.~~

18 A. ~~Exactly.~~

19 Q. ~~That has Restoraderm at the top; is that~~
20 ~~correct?~~

21 A. ~~That's correct.~~

22 Q. ~~Under that it says, "A product and a~~
23 ~~dermal delivery technology."~~

24 A. ~~Correct.~~

25 Q. ~~Do you see that?~~

MARKS

1
2 ~~A. Yes.~~

3 Q. Now, there were no Restoraderm -- let me
4 ask you this: You evaluated testing done on
5 formulations of what became known as the
6 Restoraderm formulation in 2004 and 2005; isn't
7 that correct?

8 MR. JACKSON: Beyond the scope of the
9 direct. So an objection.

10 But proceed, Dr. Marks.

11 A. I know I looked at studies and evaluated
12 them and gave my opinion as a dermatologist on
13 those. Now, the exact dates, I'd have to look at
14 documents to say again. That's been quite some
15 time ago. That sounds reasonable that it was
16 after. I know when I looked at through the files,
17 there was some scientific communications after
18 that.

19 BY MR. ROCHFORD:

20 Q. And those were all after early 2002,
21 correct?

22 A. Correct.

23 Q. And all the testing that was done
24 relating to Mr. Skold's formulations were done
25 after early 2002, correct?

MARKS

1
2 A. I don't know that because I don't know
3 if there was testing done in Sweden or some place
4 else before.

5 Q. But all the testing that you're aware of
6 was done after early 2002?

7 A. I would say -- I would say that's
8 correct, other than there may have been some
9 discussions relevant to testing which I just don't
10 recall since it's been over a decade ago.

11 Q. But there are none that you can recall
12 that were prior to that time?

13 A. Correct.

14 Q. And to your knowledge, there were no
15 Restoraderm products as of early 2002, were there,
16 sir?

17 A. To my knowledge, there were no
18 Restoraderm products?

19 As of now I don't recall any, but that
20 doesn't mean there might have been some prototypes
21 or, again, something in Europe which I just don't
22 remember.

23 Q. But you don't recall anything from that
24 time period, do you, sir?

25 A. Correct.

MARKS

1
2 Q. ~~So it's entirely possible that this~~
3 ~~document here, this page 2 that refers to a~~
4 ~~product, came from some time after early 2002;~~
5 ~~isn't that correct?~~

6 A. ~~I guess one of the things I would say --~~
7 ~~and, again, I can't remember the exact details --~~
8 ~~there could have been a prototype in that meeting~~
9 ~~in 2002 at Crib Derm. It's not uncommon to --~~

10 Q. ~~I don't want you guessing, sir. If you~~
11 ~~know there was something, tell me. Otherwise,~~
12 ~~please don't guess.~~

13 A. ~~No.~~

14 Q. ~~Did you give Mr. Jackson any other~~
15 ~~documents besides this T150 document?~~

16 A. ~~Yes.~~

17 Q. ~~What else did you give him?~~

18 A. ~~Communications subsequent to that that~~
19 ~~were in my file relevant to Restoraderm.~~

20 Q. ~~How many documents?~~

21 A. ~~Maybe four or five. I'm not positive.~~

22 Q. ~~Do you recall what those were about?~~

23 A. ~~Relevant to what could Restoraderm be,~~
24 ~~the vehicle to deliver active ingredients, such as~~
25 ~~perhaps an antifungal or a steroid. And then~~

MARKS

~~there was another document, as I recollect, on how Restoraderm increased the penetration through the barrier of the skin.~~

Q. And you're using Restoraderm to describe what you were working on as part of the Collagenex Scientific Advisory Board --

A. Correct.

Q. -- during that time period?

A. Correct.

MR. ROCHFORD: That's all I have.

MR. JACKSON: That was easy relatively.

THE WITNESS: Is that it?

MR. JACKSON: Yes.

MR. ROCHFORD: Thank you, Doctor.

(Whereupon, at 4:26 p.m., the taking of the instant deposition ceased.)

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STATE OF Pennsylvania)

) :ss

COUNTY OF Dauphin)

I, JAMES G. MARKS, M.D., the witness
herein, having read the foregoing
testimony of the pages of this deposition,
do hereby certify it to be a true and
correct transcript, subject to the
corrections, if any, shown on the attached
page.



JAMES G. MARKS, M.D.

Sworn and subscribed to before
me, this 11th day of December
, 2013.

Mary K Forshey

Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Mary K. Forshey, Notary Public
Derry Twp., Dauphin County
My Commission Expires May 28, 2014
Member, Pennsylvania Association of Notaries

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COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF DAUPHIN) SS:

C E R T I F I C A T E

I, Ann Medis, Registered Professional Reporter, Certified Livenote Reporter and Notary Public within and for the Commonwealth of Pennsylvania, do hereby certify:

That JAMES G. MARKS, M.D., the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify the inspection, reading and signing of said deposition were not waived by counsel for the respective parties and by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of November, 2013.


Notary Public

INSTRUCTIONS TO WITNESS

1
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3 Please read your deposition over carefully
4 and make any necessary corrections. You should state
5 the reason in the appropriate space on the errata
6 sheet for any corrections that are made.

7 After doing so, please sign the errata sheet
8 and date it.

9 You are signing same subject to the changes
10 you have noted on the errata sheet, which will be
11 attached to your deposition.

12 It is imperative that you return the original
13 errata sheet to the deposing attorney within thirty
14 (30) days of receipt of the deposition transcript by
15 you. If you fail to do so, the deposition transcript
16 may be deemed to be accurate and may be used in court.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld	§	Cancellation No.: 92052897
Petitioner,	§	
v.	§	Mark: RESTORADERM
Galderma Laboratories, Inc.	§	
Registrant.	§	Reg. Nos.: 2,985,751 and 3,394,514
	§	
	§	

EXHIBIT B.2

Transcript of the November 14, 2013 Deposition of Marks Redacting the Matter to be Stricken.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration Nos. 2985751; and 3394514
Dated: August 16, 2005 & March 11, 2008, Respectively

_____)	
Thomas Skold,)	
)	
Petitioner,)	
)	Cancellation No. 92052897
v.)	
)	
Galderma Laboratories, Inc.,)	
)	
Registrant.)	
_____)	

DEPOSITION OF JAMES G. MARKS, M.D.,

a witness herein, called for examination, taken by

and before Ann Medis, Registered Professional

Reporter and Notary Public in and for the

Commonwealth of Pennsylvania, at the Penn State

Hershey Medical Center, University Physician

Center, 4th Floor Conference Room, 500 University

Drive, Hershey, Pennsylvania 17033, on Thursday,

November 14, 2013, commencing at 4:00 p.m.

Job No. 32507

1 APPEARANCES:

2 On behalf of Petitioner

3 MOSER TABOADA

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21 214.651.5262

22 BY: LISA N. CONGLETON, ESQ.

23 lisa.congleton@haynesboone.com

24
25 Also Present: Thomas Skold

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* I N D E X *

JAMES G. MARKS, M.D.	PAGE
DIRECT EXAMINATION BY MR. JACKSON	4
CROSS-EXAMINATION BY MR. ROCHFORD	11

- - - -

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2

JAMES G. MARKS, JR, M.D.,

3

having been first duly sworn, was examined

4

and testified as follows:

5

DIRECT EXAMINATION

6

BY MR. JACKSON:

7

Q. Professor Marks, could you put your full

8

name into the record.

9

A. James G. Marks, Jr.

10

Q. Your residence?

11

A. Hershey, Pennsylvania.

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MARKS

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BY MR. JACKSON:

9

Q. When and where did you meet Thomas

10

Skold, Professor Marks?

11

A. When and where? I believe it was in the

12

late 1990s in Orlando, Florida at an American

13

Academy of Dermatology meeting. So I'd have to

14

look at what year that American Academy of

15

Dermatology meeting actually occurred, but I

16

believe it was the late '90s. It could have been

17

earlier. I don't think it was in this century.

18

Q. Did you perhaps in collaboration

19

organize the original Caribbean Derm meeting?

20

A. Yes.

21

Q. What year was that?

22

A. That was in 2002.

23

Q. I will assume, but ask for your

24

confirmation, that you attended.

25

A. Yes. I did attend.

MARKS

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2 BY MR. JACKSON:

3 Q. Did that meeting concerning Restoraderm
4 occur at the Restoraderm derm -- sorry -- at the
5 Caribbean Derm meeting of January 2001?

6 A. 2002.

7 Q. My apologies.

8 MR. ROCHFORD: Foundation. Can we start
9 the question over?

10 BY MR. JACKSON:

11 Q. Did the meeting you just spoke of
12 concerning Restoraderm happen at the January 2002
13 Caribbean Derm meeting?

14 A. Yes.

15 MR. ROCHFORD: Object to form,
16 foundation, form, speculation.

17 BY MR. JACKSON:

18 Q. Do you recall scientific presentations
19 concerning Restoraderm technology during the 2004,
20 2005 timeframe?

21 A. 2004, 2005?

22 Q. Yes.

23 A. So as I reviewed my file, I found
24 documents in which the scientific basis for
25 Restoraderm was discussed. And actually I was

MARKS

1
2 involved in evaluating those scientific
3 evaluations. So the answer is yes.

4 MR. ROCHFORD: Object and move to strike
5 on relevance grounds.

6 BY MR. JACKSON:

1 MARKS

2 BY MR. JACKSON:

3 Q. Were you named to the scientific
4 advisory board of Collagenex?

5 A. Yes.

6 Q. Do you know roughly about what
7 timeframe?

8 A. The early part of the decade between
9 2000 and 2010. I didn't look at the contracts
10 because they were renewed annually, but it would
11 be in that -- probably the first half of --
12 between 2000 and 2005 approximately.

13 Q. From that relationship with Collagenex
14 and the interactions you had with Collagenex, was
15 it your impression that the term Restoraderm was
16 exclusively used to refer to Thomas Skold's
17 technology?

18 A. Yes.

19 MR. ROCHFORD: Objection. Calls for
20 speculation, hearsay, foundation, relevance.

21 BY MR. JACKSON:

22 Q. One moment, Dr. Marks. For my part,
23 Dr. Marks, I thank you. There may be questions
24 from the other side. If there are questions from
25 the other side, then I may ask one or two. Well,

1 MARKS

2 I can't speculate how many, but I may ask you more
3 questions.

4 MR. ROCHFORD: Off the record for a
5 moment.

6 (There was a recess in the proceedings.)

7 CROSS-EXAMINATION

8 BY MR. ROCHFORD:

9 Q. Good afternoon, Mr. Marks. We
10 introduced ourselves earlier. Again, for the
11 record, my name is Rich Rochford from Haynes and
12 Boone representing Galderma, with my colleague
13 Lisa Congleton.

14 A couple preliminary comments -- actually
15 only one in this sense that because of the nature
16 of this proceeding, we have to make the objections
17 now on the record, but they don't get ruled on
18 till later. I may ask you some questions that
19 deal with things that we've objected to, and we
20 don't waive any objections by raising those
21 questions now.

22 Mr. Marks, you know Mr. Skold very well,
23 don't you?

24 A. It's Dr. Marks, and the answer is yes.

25 Q. Did I say Mister?

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A. Yes.

Q. I apologize. Do you prefer Doctor,
Professor?

A. I think in the circumstances where
I'm -- my whole testimony is relevant to my role
as a physician/scientist doing clinical research,
Doctor is probably more accurate.

Q. Okay. So, Dr. Marks, let's turn to the
question now. You're close friends with
Mr. Skold?

A. That's correct.

Q. You've known each other for a long time?

A. That's correct.

Q. You've worked together?

A. Correct.

Q. You've given him personal references?

A. Personal references? What do you mean
by that?

Q. Haven't you vouched for him in a
professional context?

A. I've evaluated the science involved in
Restoraderm, but I don't know that that says vouch
for him personally. So I think there's perhaps a
difference there.

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Q. Let me put the question another way.
Have you ever given him a reference to anybody?

A. I may have. I don't recall.

Q. You've socialized extensively with
Mr. Skold over the years?

A. Yes.

Q. Together with your wives?

A. Correct.

Q. Including him staying at your house in
Hershey?

A. Correct.

Q. Have you stayed at his house in Sweden?

A. Yes.

Q. On the island?

A. Technically speaking, no. It was in a
boat next to the island.

Q. Mr. Skold owns an island and a boat,
doesn't he?

A. The boat we stayed in I don't think he
owned, but my understanding is, yes, he owns a
boat and he does own an island is my understanding
also, but I haven't checked with the Swedish
authorities to be sure.

Q. So you would do whatever you can to help

MARKS

1

2 Mr. Skold, wouldn't you?

2

3

A. As long as it's ethical and legal, yes.

4

Q. Now, do you know Mr. Jackson?

5

A. No.

6

Q. Have you met with him previously?

7

A. Yes.

8

Q. When did you meet with him?

9

A. We met for the first time yesterday

10

evening. We had -- we met yesterday evening.

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MARKS

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1 MARKS

3 Q. Now, there were no Restoraderm -- let me
4 ask you this: You evaluated testing done on
5 formulations of what became known as the
6 Restoraderm formulation in 2004 and 2005; isn't
7 that correct?

8 MR. JACKSON: Beyond the scope of the
9 direct. So an objection.

10 But proceed, Dr. Marks.

11 A. I know I looked at studies and evaluated
12 them and gave my opinion as a dermatologist on
13 those. Now, the exact dates, I'd have to look at
14 documents to say again. That's been quite some
15 time ago. That sounds reasonable that it was
16 after. I know when I looked at through the files,
17 there was some scientific communications after
18 that.

19 BY MR. ROCHFORD:

20 Q. And those were all after early 2002,
21 correct?

22 A. Correct.

23 Q. And all the testing that was done
24 relating to Mr. Skold's formulations were done
25 after early 2002, correct?

MARKS

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2 A. I don't know that because I don't know
3 if there was testing done in Sweden or some place
4 else before.

5 Q. But all the testing that you're aware of
6 was done after early 2002?

7 A. I would say -- I would say that's
8 correct, other than there may have been some
9 discussions relevant to testing which I just don't
10 recall since it's been over a decade ago.

11 Q. But there are none that you can recall
12 that were prior to that time?

13 A. Correct.

14 Q. And to your knowledge, there were no
15 Restoraderm products as of early 2002, were there,
16 sir?

17 A. To my knowledge, there were no
18 Restoraderm products?

19 As of now I don't recall any, but that
20 doesn't mean there might have been some prototypes
21 or, again, something in Europe which I just don't
22 remember.

23 Q. But you don't recall anything from that
24 time period, do you, sir?

25 A. Correct.

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Q. And you're using Restoraderm to describe what you were working on as part of the Collagenex Scientific Advisory Board --

A. Correct.

Q. -- during that time period?

A. Correct.

MR. ROCHFORD: That's all I have.

MR. JACKSON: That was easy relatively.

THE WITNESS: Is that it?

MR. JACKSON: Yes.

MR. ROCHFORD: Thank you, Doctor.

(Whereupon, at 4:26 p.m., the taking of the instant deposition ceased.)

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STATE OF Pennsylvania)

) :ss

COUNTY OF Dauphin)

I, JAMES G. MARKS, M.D., the witness
herein, having read the foregoing
testimony of the pages of this deposition,
do hereby certify it to be a true and
correct transcript, subject to the
corrections, if any, shown on the attached
page.



JAMES G. MARKS, M.D.

Sworn and subscribed to before
me, this 11th day of December
, 2013.

Mary K Forshey

Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Mary K. Forshey, Notary Public
Derry Twp., Dauphin County
My Commission Expires May 28, 2014
Member, Pennsylvania Association of Notaries

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COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF DAUPHIN) SS:

C E R T I F I C A T E

I, Ann Medis, Registered Professional Reporter, Certified Livenote Reporter and Notary Public within and for the Commonwealth of Pennsylvania, do hereby certify:

That JAMES G. MARKS, M.D., the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify the inspection, reading and signing of said deposition were not waived by counsel for the respective parties and by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of November, 2013.


Notary Public

INSTRUCTIONS TO WITNESS

1
2
3 Please read your deposition over carefully
4 and make any necessary corrections. You should state
5 the reason in the appropriate space on the errata
6 sheet for any corrections that are made.

7 After doing so, please sign the errata sheet
8 and date it.

9 You are signing same subject to the changes
10 you have noted on the errata sheet, which will be
11 attached to your deposition.

12 It is imperative that you return the original
13 errata sheet to the deposing attorney within thirty
14 (30) days of receipt of the deposition transcript by
15 you. If you fail to do so, the deposition transcript
16 may be deemed to be accurate and may be used in court.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Thomas Sköld
Petitioner,

v.

Galderma Laboratories, Inc.
Registrant.

§
§
§
§
§
§
§

Cancellation No.: 92052897

Mark: RESTORADERM

Reg. Nos.: 2,985,751 and 3,394,514

EXHIBIT C

Certified Translation of Document T150 Obtained by Registrant.



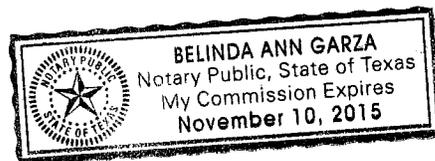
TRANSPERFECT

AFFIDAVIT OF ACCURACY

I, Matt Miller, hereby certify that the attached document is, to my knowledge and belief, a true and accurate translation of the file, "20131209120030224" from Swedish into English.

Matt Miller
1717 S Main St
Dallas, TX 75201

Sworn before me on this
10th Day of December 2013

Signature, Notary Public

Stamp, Notary Public

Thomas Sköld

From: "Ylva Margareta Skoglösa" <YMS@pv.dk>
To: "Thomas Sköld" <skold@mbox312swipnet.se>
Sent: January 11, 2002 11:37
Attachments: CLAIMS.doc
Subject: requirements and text 31307XX1

Dear Thomas,

Thank you for a very enjoyable and creative meeting.

I attach as per agreement, the very rough draft of the requirements that we drew up together yesterday. I have also come up with ideas about an English text on lipid disorder:

The vehicle is designed in its choice of and share of lipids to resemble the normal lipid organisation of the stratum corneum. Thus the administered vehicle will easily penetrate the lipid bilayer of the skin and in doing so create a temporary and reversible state of enhanced atrophy among the bilayer. The enhanced atrophy in itself should then give rise to a) enhanced energy levels, said energy could promote active transport of the to-be-carried substances into the skin, and/or b) naturally and reversibly occurring holes and disorganised patches in the lipid bilayer, through which the active substances could then pass more easily. It is very well feasible that the temporary disarray in the lipid bilayer will temporarily break up the organised structure of the bilayer and create micelles of lipids with areas between them/surrounding them through which lipophobic/hydrophil substances and compositions can enter the stratum corneum. As the content of the vehicle resembles the natural lipid build-up of the skin, the so introduced new lipids will after a short span of creative chaos easily blend in with the natural lipid building stones of the lipid bilayer and thus not permanently damage the skin.

As a final point for this time, I ask you to send us the address where you would like us to send the post.

Enjoy the sunshine.
Very best regards,

[handwritten:] 1 [illegible]
[handwritten:] 2 TWIN LAB

[handwritten:] TO TURNER
001 801 553 7075

Ylva

<<CLAIMS.doc>>
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[stamp:] EXHIBIT
T150

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