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

Proceeding no.	91247175
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Date	08/11/2022
Attachments	Response.pdf(168057 bytes) Declaration.pdf(482340 bytes)

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

Atara Biotherapeutics, Inc., Opposer, v. Allogene Therapeutics, Inc., Applicant.	Application No. 88/117,993 Opposition No. 91247175 (Parent) Mark: ALLOCAR T
Atara Biotherapeutics, Inc., Opposer, v. Allogene Therapeutics, Inc., Applicant.	Application No. 88/117,972 Opposition No. 91247177 (Child) Mark: AUTOCAR T

APPLICANT ALLOGENE THERAPEUTICS, INC.'S
RESPONSE TO OPPOSER'S APPENDIX TO OPPOSER'S ACR BRIEF REGARDING EVIDENTIARY OBJECTIONS

I. INTRODUCTION

Opposer Atara Biotherapeutics, Inc. ("Opposer") first asserted objections in its reply brief at the conclusion of the Accelerated Case Resolution ("ACR") period. Not only were these objections untimely, but many were procedurally improper and outside the scope of the parties' stipulation. On those bases alone, Opposer's objections should be denied. *See* 42 TTABVUE. In addition to these procedural deficiencies, and as explained more fully below, Opposer's objections should be denied on substantive grounds as well.

II. ARGUMENT

If Opposer's objections are considered on their merits, they should be denied. "Board proceedings 'are tried before judges not likely to be easily confused or prejudiced. Objections to trial testimony on bases more relevant to jury trials are particularly unnecessary in this forum.'" 43 TTABVUE 2 (quoting *Grote Indus., Inc. v. Truck-Lite Co., LLC*, 126 USPQ2d 1197, 1200 (TTAB 2018)). The Board has previously held that objections such as hearsay and lack of foundation—the alleged basis of many of Opposer's objections here—are the types of objections over which the Board may consider evidence and afford it the proper weight, without excluding the evidence altogether. *U.S. Playing Card Co. v. Harbro, LLC*, 81 USPQ2d 1537 (TTAB 2006).[1]

A. Responses to Opposer's Specific Objections to Testimony in Zomorodian Declaration

1. Zomorodian Declaration ¶ 6

In paragraph 6 of her declaration, Ms. Zomorodian testifies that:

> In my experience, CAR T cell therapies are administered only in highly-specialized academic centers and hospitals. I understand that these therapies require the administration centers to have particular storage capabilities to keep

[1] Applicant is cognizant of the Board's reminder in its July 28, 2022 Order that parties are "discouraged from raising objections that are not outcome-determinative." 43 TTABVUE 2. Having considered its potential objections to Opposer's evidence submitted in connection with its ACR briefing, Applicant has determined that none would be outcome-determinative, and on that basis has chosen not to assert objections.

> the CAR T cells, and special equipment is required to manage the side effects for patients. In addition, the clinicians administering the therapies use particular administration techniques. Most community hospitals that I am familiar with are not properly outfitted to handle these treatments, and in the community hospitals that I have visited, the treatments are not especially well known.

Opposer first objects to paragraph 6 under Fed. R. Evid. 602. Under this rule, "a witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony." Here, Ms. Zomorodian's testimony is expressly cabined to her "experience," "community hospitals that [Ms. Zomorodian is] familiar with," and the "community hospitals that [she has] visited." Thus, Ms. Zomorodian's declaration testimony in this paragraph is based entirely on her personal observations and knowledge. Opposer's objection under FRE 602 goes to the weight, not admissibility, of the evidence and should be denied.

Opposer next objects to this paragraph under Fed. R. Evid. 701 as improper expert opinion. Under this rule, "If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness's perception; (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702." Opposer's objection should be denied because Ms. Zomorodian is not offering testimony in the form of opinions. She is testifying based on what she has seen visiting community hospitals and the community hospitals that she is familiar with. This is not expert testimony, and her observations are not based on scientific, technical, or other specialized knowledge. Here, unlike in the CRISPR proceeding, her testimony is expressly limited to her own experiences, rather than offering generalized opinions based on those experiences. *Compare* 39 TTABVUE at Ex. 4 at ¶ 6 (Zomorodian Decl.) *with* Opp'n. 91247245, 54 TTABVUE at Ex. 11 at ¶ 26.

2. Zomorodian Declaration ¶ 7

In paragraph 7 of her declaration, Ms. Zomorodian testifies that:

> Based on my experience providing direct care to cancer patients, the vast majority of patients that I have interacted with are not able to recognize the different pathways in cancer treatments, let alone the specific immunotherapies used to treat their cancer and the immunotherapies' properties. In my experience, only a small subset of highly educated patients may recognize and differentiate the CAR T cells (such as allogeneic or autologous CAR T cells), or even recognize CAR T as an immune-oncology treatment.

Opposer first objects under Fed. R. Evid. 602. However, as with paragraph 6, Ms. Zomorodian's testimony in this paragraph 7 is limited to only her "experience providing direct care to cancer patients," those patients that "[she] has interacted with," and "[her] experience" with highly educated patients. In addition, and contrary to Opposer's contention, Ms. Zomorodian does have experience with autologous CAR T therapies, testifying that she worked with Kite Pharma on autologous CAR T therapies. Declaration of Thomas L. Holt ("Holt Decl."), Ex. 1 at 40:20–25. Thus, her testimony is based on her own personal knowledge and observations and this objection should be denied.

Opposer also objects to this paragraph as hearsay under Fed. R. Evid. 802 and 803. Under Fed. R. Evid. 801(c), hearsay is defined as an out of court statement offered to prove the truth of the matter asserted. A "statement" means "a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion." Fed. R. Evid. 801(a). It is entirely unclear what "statements" are being offered through Ms. Zomorodian's testimony that Opposer is now objecting to. Opposer fails to cite a single statement made by any patient in asserting this objection, instead apparently theorizing about how Ms. Zomorodian might have asked a patient what they understand and how that patient responded. 40 TTTABVUE 15 (Appendix at p. 3). But no such statements have been offered by Ms. Zomorodian. Opposer's hearsay objection should be denied.

Finally, Opposer objects to this paragraph as improper expert testimony under Fed. R. Evid. 701. As with paragraph 6, Ms. Zomorodian's testimony (to the extent it can even be characterized as an opinion) is based on her personal knowledge and experience providing direct care to cancer patients. It is not based on specialized knowledge by Ms. Zomorodian. Ms. Zomorodian does not claim to have taken a survey nor does she claim to be a psychologist. This expertise is not required to testify as to her impressions of what a patient understands about CAR T cell therapies while interacting with Ms. Zomorodian. Opposer's objection goes to the weight of her testimony rather than its admissibility, and Opposer's objection should be denied.

3. Zomorodian Declaration ¶ 8

In paragraph 8 of her declaration, Ms. Zomorodian testifies that:

> In my experience, cancer patients typically do not arrive at the clinics administering CAR T immunotherapies requesting "CAR T therapy," "allogeneic CAR T therapy," or "autologous CAR T therapy," let alone "allo CAR T therapy" or "auto CAR T therapy." Instead, I have seen cancer patients often show up at the clinics asking their healthcare providers for the treatment they saw in TV or social media ads or other consumer-facing outlets (e.g., Yescarta) without knowing that it is a CAR T therapy. Other times, I have seen patients that are referred to clinics by their doctors who do not have access to CAR T therapies. In my experience, these patients are not told by their referring doctors that the therapies they are seeking are "CAR T" therapies, much less "autologous/allogeneic" therapies. Most of the patients I have seen arrive at the clinics without any exposure to or knowledge of the medical terminology used to describe the therapies they are embarking upon (i.e., "allogeneic CAR T/autologous CAR T").

Opposer first objects under Fed. R. Evid. 602. Again, Ms. Zomorodian's testimony is limited to her personal observations and experiences with cancer patients. It is based on "[her] experience" with cancer patients arriving at clinics administering CAR T immunotherapies and patients that "[she has] seen" show up at or referred to clinics. In other words, her testimony is limited to her own personal knowledge. This objection should be denied.

Opposer also objects to this paragraph on the grounds that it constitutes hearsay under Fed. R. Evid. 802 and 803. This falls within the categories of evidence that the "Board is capable of assessing the proper evidentiary weight to be accorded…taking into account the imperfections surrounding the admissibility of such testimony and evidence." *U.S. Playing Card Co. v. Harbro, LLC*, 81 USPQ2d 1537 (T.T.A.B. 2006). This objection should also be denied.

Finally, Opposer objects to this paragraph as improper expert testimony under Fed. R. Evid. 701. As with Opposer's objections to prior paragraphs on this same rule, Ms. Zomorodian's testimony (to the extent it can even be characterized as opinion) is based on her experience with cancer patients and patients that she has seen. It is not based on specialized knowledge by Ms. Zomorodian. Ms. Zomorodian does not claim to have taken a survey nor does she claim to be a psychologist. This expertise is not required to testify as to her impressions of what a patient understands about CAR T cell therapies while interacting with Ms. Zomorodian. Again, Opposer's objection goes to the weight of Ms. Zomorodian's testimony rather than its admissibility, and Opposer's objection should therefore be denied.

4. Zomorodian Declaration ¶ 9

In paragraph 9 of her declaration, Ms. Zomorodian testifies that:

> Allogeneic and autologous CAR T cell therapies are relatively new to the immune-oncology field. Most general oncologists and patients that I interact with often do not understand the terms "CAR T cells," "autologous/allogeneic CAR T cells," or "allo/auto CAR T."

Opposer first objects under Fed. R. Evid. 602. Ms. Zomorodian states that her personal knowledge of how general oncologists and patients understand the terms "CAR T cells," "autologous/allogeneic CAR TO cells," or "allo/auto CAR T" comes from the fact that "[she] interacts with" those general oncologists and patients. Her testimony is limited to only those general oncologists and patients that she interacts with. Opposer's objection should be denied.

Opposer also objects to this paragraph as hearsay under Fed. R. Evid. 802 and 803. It is entirely unclear what "statements" are being offered through Ms. Zomorodian's testimony that Opposer is objecting to. Opposer fails to cite a single statement made by any patient in asserting this objection, instead apparently theorizing about how Ms. Zomorodian might have asked a patient what they understand and how that patient responded. 40 TTTABVUE 15 (Appendix at p. 3). But no such statements have been offered by Ms. Zomorodian. Opposer's hearsay objection should be denied.

Finally, Opposer objects to this paragraph as improper expert testimony under Fed. R. Evid. 701. As with Opposer's objections to prior paragraphs on this same rule, Ms. Zomorodian's testimony (to the extent it can be characterized as an opinion) is limited to her experience with general oncologists and patients. It is not based on specialized knowledge by Ms. Zomorodian. Ms. Zomorodian does not claim to have taken a survey nor does she claim to be a psychologist. This expertise is not required to testify as to her impressions of what a general oncologist or patient understands about certain terms related to CAR T cell therapies. Again, Opposer's objection goes to the weight of Ms. Zomorodian's testimony rather than its admissibility, and Opposer's objection should therefore be denied.

5. Zomorodian Declaration ¶ 10

In paragraph 10 of her declaration, Ms. Zomorodian testifies that:

> In my experience, highly educated oncologists involved with clinical trials may refer to "CAR T"; however, they do not explain CAR T therapies to their community hospital colleagues or their patients using the terms "autologous" or "allogeneic" CAR T therapies, nor do they use "auto CAR T" or "allo CAR T." In my experience, it is only those oncologists conducting the clinical trials who would know the meaning of the terms "autologous" or "allogeneic" CAR T therapies.

Opposer first objects under Fed. R. Evid. 602. The foundation for Ms. Zomorodian's testimony in this paragraph can again be found "in [her] experience" with highly educated

oncologists involved in clinical trials for CAR T cell therapies. Ms. Zomorodian's testimony contains adequate foundation, and Opposer's objection should be denied.

Opposer also objects to this paragraph as hearsay under Fed. R. Evid. 802 and 803. However, no statements have been offered by Ms. Zomorodian. In fact, the crux of Ms. Zomorodian's testimony concerns terms that highly educated oncologists *do not* use (e.g., "autologous" or "allogeneic"), based on her experience. In other words, it is the absence of particular words in oncologists' statements to which Ms. Zomorodian is testifying. Opposer's hearsay objection should be denied.

Finally, Opposer objects to this paragraph as improper expert testimony under Fed. R. Evid. 701. As with Opposer's objections to prior paragraphs on this same rule, Ms. Zomorodian's testimony (to the extent it can even be characterized as opinion) is limited to her experience with oncologists conducting clinical trials and what terms she has not heard them use. It is not based on specialized knowledge by Ms. Zomorodian. Expertise is not required to testify as to her recollection of what terms she has not heard used by oncologists conducting clinical trials. Opposer's objection should therefore be denied.

6. Zomorodian Declaration ¶ 13

In paragraph 13 of her declaration, Ms. Zomorodian testifies that:

> I use the less-scientific terminology because it is readily understood by my patients, most of whom are not scientifically educated. Additionally, when I am describing CAR T therapies in the context of clinical trials, I am required by FDA regulations to explain them at an eighth-grade or lower reading level. In my experience, terms such as "CAR T," "autologous," "allogeneic," "auto CAR T," and "allo CAR T," are too scientific to meet these FDA requirements.

Opposer first objects under Fed. R. Evid. 602. Here, Ms. Zomorodian's testimony is based on what terminology she uses with patients, what she understands her obligations to be under FDA regulations, and what terms she does not use when speaking with patients to comply

with those FDA regulations. Ms. Zomorodian's testimony is well within her personal knowledge. Opposer's objection goes the weight, not the admissibility, of Ms. Zomorodian's testimony and should therefore be denied.

Opposer also objects to this paragraph as improper expert testimony under Fed. R. Evid. 701. Opposer's objection again goes to weight and not admissibility. Ms. Zomorodian is testifying regarding what she believes FDA regulations require of her. That testimony does not require specialized knowledge, skill, or expertise. Opposer's objection should be denied.

7. Zomorodian Declaration ¶ 14

In paragraph 14 of her declaration, Ms. Zomorodian testifies that:

> Based on my experience, "auto CAR T" and "allo CAR T" are not terms understood by my patients as referring to or describing pharmaceutical and biological preparations for immunotherapy and treatment of cancer and tumors.

Opposer first objects under Fed. R. Evid. 602. Here, Ms. Zomorodian's testimony is based on "[her] experience" with "[her] patients." The preceding paragraphs of Ms. Zomorodian's declaration demonstrate the facts and foundation on which this paragraph is based. As explained above, those paragraphs are based on her experiences, interactions, and observations of patients. Thus, Ms. Zomorodian's declaration testimony in this testimony is based entirely on her personal observations and knowledge.

Opposer also objects to this paragraph as hearsay under Fed. R. Evid. 802 and 803. It is entirely unclear what "statements" are being offered through Ms. Zomorodian's testimony that Opposer is now objecting to. Opposer fails to cite a single statement made by any patient in asserting this objection, instead apparently theorizing about how Ms. Zomorodian might have asked a patient what they understand and how that patient responded. 40 TTTABVUE 15 (Appendix at p. 3). But no such statements have been offered by Ms. Zomorodian. Opposer's hearsay objection should be denied.

Finally, Opposer objects to this paragraph as improper expert testimony under Fed. R. Evid. 701. As with Opposer's objections to prior paragraphs on this same rule, Ms. Zomorodian's testimony, is limited to her experience with patients. It is not based on specialized knowledge by Ms. Zomorodian. Ms. Zomorodian does not claim to have taken a survey nor does she claim to be a psychologist. This expertise is not required to testify as to her impressions of what a general oncologist or patient understands about certain terms related to CAR T cell therapies. Again, Opposer's objection goes to the weight of Ms. Zomorodian's testimony rather than its admissibility, and Opposer's objection should therefore be denied.

B. Response to Opposer's General Objections to Testimony in Zomorodian Declaration

Opposer argues that where a party's evidence relies on "an expression of opinion by the witness," it has no value. First, it is unclear exactly what portions of Ms. Zomorodian's testimony that Opposer is objecting to through its "general objections." Second, as demonstrated above, Ms. Zomorodian's testimony is not an expression of her opinion, but rather facts based on her personal experience interacting with community and specialized hospitals, her patients, and general and specialized oncologists. Indeed, her testimony consists entirely of statements regarding her personal knowledge. Opposer offers no such testimony or other evidence regarding how patients understand the term ALLOCAR T and AUTOCAR T but instead focuses its efforts on baseless objections to Ms. Zomorodian's testimony. Opposer's amorphous "general objections" should be denied.

C. Responses to Opposer's Specific Objections to Testimony in Cassiano Declaration

1. Cassiano Declaration ¶ 5

In paragraph 5 of her declaration, Ms. Cassiano testifies that:

> Similarly, Allogene plans to develop cancer therapies using a manufacturing process in which it engineers T cells to recognize and destroy cancer cells, but these T cells come from the cancer patients themselves. Allogene plans to

> identify its autologous CAR T therapies, created using Allogene's unique manufacturing process, with the mark AutoCAR T.

Opposer objects under Fed. R. Evid. 602. Opposer has not asserted an objection in so much as it has identified what it (incorrectly) believes is a supposed inconsistency in Ms. Cassiano's testimony. As an initial matter, inconsistency (even if true, which it is not) is not a ground on which to exclude evidence. Her testimony has proper foundation. She is the Chief Communications Officer of Applicant who oversees all internal and external communications within Applicant's company. Ms. Cassiano has personal knowledge of Applicant's CAR T cell therapy development plans. In addition, Ms. Cassiano's testimony regarding Applicant's plans for its autologous CAR T cell therapies is consistent with Applicant's intent to use AUTOCAR T. As Ms. Cassiano explained, development of an autologous CAR T therapy is "something that's been in discussion with regard to the development of it, and so we've talked from a strategy perspective [about it]." Holt Decl., Ex. 2 at 154:18–155:3; *see also id.* at 166:3–167:11 ("Q. So is it fair to say that Allogene has no intent to use the term 'auto CAR T' in connection with any drug therapies? A. I don't think that's fair to say."). Opposer's objection should be denied.

2. Cassiano Declaration ¶ 7

In paragraph 7 of her declaration, Ms. Cassiano testifies that:

> Upon FDA approval, Allogene intends to market its allogeneic CAR T therapies to cancer patients, oncologists, and other medical professionals.

Opposer objects under Fed. R. Evid. 602. Once again, Opposer simply points out what it (incorrectly) believes is an inconsistency in Ms. Cassiano's testimony, rather than asserts an actual objection to the admissibility of this paragraph. As an initial matter, inconsistency (even if true, which it is not) is not a ground on which to exclude evidence. Her testimony has proper foundation. She is the Chief Communications Officer of Applicant who oversees all internal and

external communications within Applicant's company. Ms. Cassiano has personal knowledge of Applicant's intended consumers for the therapies it is developing. In addition, there is no inconsistency. As Ms. Cassiano stated in the deposition testimony on which Opposer relies, Applicant at this time does not have FDA approval for its therapies, so there is no marketable product at this time and may not be until years into the future. 38 TTABVUE at Ex. 23 at 170:9–172:5. However, comparing what companies with FDA-approved products in an adjacent type of therapy to Applicant's developing therapies, Ms. Cassiano stated that when talking about marketing Applicant would intend to go to both patients and health care professionals. *Id.* There is adequate foundation for Ms. Cassiano's testimony in this paragraph, and Opposer's objection should be overruled.

3. Cassiano Declaration ¶ 8

In paragraph 8 of her declaration, Ms. Cassiano testifies that:

> One reason drug companies market directly to patients and their caregivers is to educate patients about their therapies. Patients are empowered, now more than ever, to research available treatments for their disease through the vast amount of information over the Internet and to then approach their treating physicians requesting specific treatments. Thus, it is incumbent upon the companies offering the therapies to make accurate information about their therapies available to patients (e.g.., benefits, risks, side-effects, efficacy), with terminology that patients can easily understand.

Opposer objects under Fed. R. Evid. 602, claiming that Ms. Cassiano lacks personal knowledge to support paragraph 8 of her declaration. However, Opposer explored this exact issue during its deposition of Ms. Cassiano, during which she explained that her testimony is based on her work at or with at least 30 different drug companies, including Allogene, Allergan, Amgen, Abraxis Bio, APP Parmaceuticals, Kite Pharma, Pfizer, and several others. *See* 38 TTABVUE at Ex. 23 at 173:7–174:19. Similarly, Ms. Cassiano's statement about patients being empowered to research available treatments on their own has adequate foundation, based on Ms.

Cassiano's 20 years of experience in the industry and her own knowledge that internet searches, including Google and WebMD make information far more available now than at the start of her career. *See* Holt Decl., Ex. 2 at 175:1–17. Ms. Cassiano is not offered as an expert witness, nor does she offer opinions (expert or otherwise). Rather she is speaking about her own knowledge and experiences, having been and currently being a participant in that industry. Opposer's objection under Fed. R. Evid. 701 and pursuant to the ACR stipulation should also be denied.

4. Cassiano Declaration ¶ 9

In paragraph 9 of her declaration, Ms. Cassiano testifies that:

> In addition, it is also important that drug companies market directly to patients because patients and their caregivers have increasingly taken an active role in their own healthcare decisions, rather than relying exclusively on the information provided by their healthcare provider. Armed with more information patients are able to have a more informed dialogue with their healthcare provider about their treatment options. Companies offering therapies, especially novel therapies, therefore have an interest in marketing directly to patients to encourage this healthy dialogue between patient and healthcare provider. As a result, the patients become an integral part of the decision-making process for these therapies.

Opposer objects under Fed. R. Evid. 602. Here again, Ms. Cassiano has personal knowledge sufficient to make this statement, having worked at or with at least 30 different drug companies. *See* 38 TTABVUE at Ex. 23 at 173:7–174:19. At a minimum, Ms. Cassiano has adequate personal experience to speak regarding her experience at those companies. Ms. Cassiano is not offered as an expert witness, nor does she offer opinions (expert or otherwise). Rather she is speaking about her own knowledge and experiences, having been and currently being a participant in that industry. Opposer's objection under Fed. R. Evid. 701 and pursuant to the ACR stipulation should also be denied.

5. Cassiano Declaration ¶ 10

In paragraph 10 of her declaration, Ms. Cassiano testifies that:

> While no allogeneic CAR T therapy has yet obtained FDA approval, some autologous CAR T therapies have, such as Kymriah and Yescarta. These

> companies advertise directly to consumers through their respective websites and social media pages. Examples of these websites and social media pages are attached hereto as Exhibits A–D.

Opposer objects under Fed. R. Evid. 602. Opposer argues that this paragraph lacks foundation because Ms. Cassiano "did not know specifically whether other companies had materials directed towards oncologists." 40 TTABVUE 24 (Appendix at p. 12). But this paragraph concerns Ms. Cassiano's knowledge of other companies marketing directly to consumers, i.e., patients. And Ms. Cassiano testified that she has reviewed these companies' marketing. 38 TTABVUE at Ex. 23 at 180:4–11. Opposer's objection should be denied.

D. Response to Opposer's General Objections to Testimony in Cassiano Declaration

Opposer argues that Ms. Cassiano's testimony should be excluded to the extent it is relied on to prove who the relevant purchasing public of Applicant's goods it intends to offer under the ALLOCAR T or AUTOCAR T mark is and/or what the relevant purchasing public perceives the ALLOCAR T or AUTOCAR T mark to mean. First, Applicant does not offer Ms. Cassiano's testimony to prove the latter. And second, there is ample foundation for her to offer testimony on the former. Ms. Cassiano is Applicant's Chief Communications Officer, responsible for all forms of internal and external communications, including overseeing communications relating to investor relations, media, advocacy, social media, and other online communication such as the company's website. 39 TTABVUE at Ex. 1 at ¶ 3 (Cassiano Decl.). As the person responsible for all communications at Applicant, she is undeniably aware of who the intended purchasing public of Applicant's goods and services is. Opposer's general objection should be denied.

E. Response to Opposer's Objections to Exhibit 5 -- Clinicaltrials.gov Webpage Printout

Opposer objects to Applicant's Exhibit 5, a clinicaltrials.gov webpage printout, on the grounds that it is hearsay under Fed. R. Evid. 802 and 803, and it lacks authentication under Fed.

R. Evid. 901. With respect to the authenticity objection, the document contains the required components to be self-authenticating: at the bottom of each page is a copy of the URL corresponding to the webpage and the date the webpage was captured (October 4, 2019). *See* 39 TTABVUE at Ex 5; T.B.M.P. § 704.08(b). Moreover, Applicant has submitted testimony that this Exhibit 5 is a "true and correct copy" of the webpage printout and further states the date of capture. 39 TTABVUE 18.[2] And Opposer issued a Request for Admission that "each document Applicant has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247175 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding." *See* Holt Decl., Ex. 3 (Applicant's Response to Opposer's First Set of Requests for Admission, No. 14). Applicant admitted this Request for Admission. *Id.* With respect to the hearsay objection, this falls within the categories of evidence that the "Board is capable of assessing the proper evidentiary weight to be accorded…taking into account the imperfections surrounding the admissibility of such testimony and evidence." *U.S. Playing Card Co. v. Harbro, LLC*, 81 USPQ2d 1537 (T.T.A.B. 2006). Opposer's objections should therefore be denied.

F. Response to Opposer's Objections to Exhibit 7 -- Applicant's Website, Investor Relation Page

Opposer objects to Applicant's Exhibit 7, a printout from Applicant's website, on the grounds that it is hearsay under Fed. R. Evid. 802 and 803, and that it lacks authentication under Fed. R. Evid. 901. As with Exhibit 5, the document is self-authenticating, containing on the document itself the URL corresponding to the webpage and the date the webpage was captured. *See* 39 TTABVUE at Ex. 7; T.B.M.P. § 704.08(b). Similarly, Applicant has submitted testimony

[2] To the extent Opposer takes issue with this method of authentication, it has attempted to authenticate a clinicaltrials.gov webpage printout in virtually the same manner. *See* 28 TTABVUE 27–28 (Opposer attempting to admit clinicaltrials.gov webpage).

that this Exhibit 5 is a "true and correct copy" of the webpage printout and further states the date of capture. 39 TTABVUE 18. With respect to the hearsay objection, this falls within the categories of evidence that the "Board is capable of assessing the proper evidentiary weight to be accorded…taking into account the imperfections surrounding the admissibility of such testimony and evidence." *U.S. Playing Card Co. v. Harbro, LLC*, 81 USPQ2d 1537 (T.T.A.B. 2006). Opposer's objections should therefore be denied.

G. Response to Opposer's Objections to Exhibit 10 -- Informed Consent Draft Guidance from IRBS, Clinical Investigators, and Sponsors

Opposer objects to Applicant's Exhibit 10, a printout from the fda.gov website, on the grounds that it is hearsay under Fed. R. Evid. 802 and 803, and that it lacks authentication under Fed. R. Evid. 901. As with Exhibits 5 and 7, the document is self-authenticating, containing on the document itself the URL corresponding to the webpage and the date the webpage was captured. *See* 39 TTABVUE at Ex. 10; T.B.M.P. § 704.08(b). Similarly, Applicant has submitted testimony that this Exhibit 5 is a "true and correct copy" of the webpage printout and further states the date of capture. 39 TTABVUE 18. With respect to the hearsay objection, this falls within the categories of evidence that the "Board is capable of assessing the proper evidentiary weight to be accorded…taking into account the imperfections surrounding the admissibility of such testimony and evidence." *U.S. Playing Card Co. v. Harbro, LLC*, 81 USPQ2d 1537 (T.T.A.B. 2006). Opposer's objections should therefore be denied.

III. CONCLUSION

For all of the reasons explained above, Applicant respectfully requests that the Board deny Opposer's opposition.

Respectfully submitted,

Dated: August 11, 2022

By: */Thomas L. Holt/*

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ATTORNEYS FOR APPLICANT ALLOGENE THERAPEUTICS, INC.

CERTIFICATE OF SERVICE

The undersigned affirms that APPLICANT ALLOGENE THERAPEUTICS, INC.'S RESPONSE TO OPPOSER'S APPENDIX TO OPPOSER'S ACR BRIEF REGARDING EVIDENTIARY OBJECTIONS was served on Opposer Atara Biotherapeutics, Inc. by emailing a copy to Opposer's attorney of record, Jesse A. Salen of Sheppard Mullin Richter & Hampton LLP, at docketing@sheppardmullin.com and jsalen@sheppardmullin.com, as required pursuant to 37 CFR § 2.119 and TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE § 113.04, on the date set forth below.

Dated: August 11, 2022

/Thomas L. Holt/
Thomas L. Holt

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Atara Biotherapeutics, Inc., Opposer, v. Allogene Therapeutics, Inc., Applicant.	Application No. 88/117,993 Opposition No. 91247175 (Parent) Mark: ALLOCAR T
Atara Biotherapeutics, Inc., Opposer, v. Allogene Therapeutics, Inc., Applicant.	Application No. 88/117,972 Opposition No. 91247177 (Child) Mark: AUTOCAR T

DECLARATION OF THOMAS L. HOLT IN SUPPORT OF APPLICANT'S RESPONSE TO OPPOSER'S APPENDIX TO OPPOSER'S ACR BRIEF REGARDING EVIDENTIARY OBJECTIONS

I, Thomas L. Holt, declare:

1. I am a partner with the law firm of Perkins Coie LLP, which is counsel for Applicant Allogene Therapeutics, Inc. ("Applicant") in this action. I am duly admitted to practice law in the State of Illinois. I make this declaration based on personal knowledge of the facts stated herein and, if called as a witness, would be able to testify competently to such facts.

2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from the Deposition Transcript of Nazy Zomorodian NP, dated December 3, 2021.

3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from the Deposition Transcript of Christine Cassiano, dated December 21, 2021.

4. Attached hereto as **Exhibit 3** is a true and correct copy of Applicant's Responses to Opposer's Requests for Admission.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 11, 2022

By: */Thomas L. Holt/*
Thomas L. Holt

CERTIFICATE OF SERVICE

The undersigned affirms that DECLARATION OF THOMAS L. HOLT IN SUPPORT OF APPLICANT'S RESPONSE TO OPPOSER'S APPENDIX TO OPPOSER'S ACR BRIEF REGARDING EVIDENTIARY OBJECTIONS was served on Opposer Atara Biotherapeutics, Inc. by emailing a copy to Opposer's attorney of record, Jesse A. Salen of Sheppard Mullin Richter & Hampton LLP, at docketing@sheppardmullin.com and jsalen@sheppardmullin.com, as required pursuant to 37 CFR § 2.119 and TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE § 113.04, on the date set forth below.

Dated: August 11, 2022

/Thomas L. Holt/
Thomas L. Holt

Exhibit 1

Atara Biotherapeutics, Inc.
v.
Allogene Therapeutics, Inc.
Opposition No. 91247175 (Parent)
Opposition No. 91247177 (Child)
Declaration of Thomas L. Holt in Support of
Applicant's Response To Opposer's Appendix To Opposer's ACR Brief Regarding
Evidentiary Objections

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Atara Biotherapeutics, Inc.,

Opposer,

vs.

Application No. 88/117,993
Opposition No. 91247175 (Parent)
Mark: ALLOCAR T

Allogene Therapeutics, Inc.,

Applicant.

Atara Biotherapeutics, Inc.,

Opposer,

vs.

Application No 88/117,972
Opposition No. 91247177 (Child)
Mark: AUTOCAR T

Allogene Therapeutics, Inc.

Applicant.

DEPOSITION REMOTELY TAKEN VIA ZOOM CONFERENCE

OF NAZY ZOMORODIAN, 30(b)(1)

FRIDAY, DECEMBER 3, 2021

Reported by:
Linda E. Marquette
RPR, CLR, CSR No. 11874

Job No. 10091296

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Atara Biotherapeutics, Inc.,

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vs.

Application No. 88/117,993
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Allogene Therapeutics, Inc.

Applicant.

DEPOSITION REMOTELY TAKEN VIA ZOOM CONFERENCE of NAZY ZOMORODIAN, taken on behalf of Opposer Atara, with everyone appearing at their remote address, and the witness appearing at Los Angeles, California, commencing at 9:59 a.m. (PST), and concluding at 12:19 p.m. (PST), on Friday, December 3, 2021, before Linda E. Marquette, RPR, CLR, Certified Shorthand Reporter No. 11874.

A. Allogeneic CAR T cells, yes.

Q. And does the term "ALLOCAR T cell" appear on the consent forms that Allogene uses?

A. Yes.

Q. Did you do anything to explain or help simplify what that term means on the consent form?

A. In the beginning of any consent form you explain that who is the sponsor of the trial is and who's basically the biotech or pharmaceutical company who is providing the product. So when we say Allogene's biotherapeutic is the sponsor and makes this product available, when we put Allogene's biotech company we put ALLO in parentheses to identify short for the company.

Q. I'm sorry. Does the term "ALLOCAR T," does that usually refer to a specific type of immunotherapy treatment on the consent form that Allogene uses?

A. Yes.

Q. What type of immunotherapy is that used to describe?

A. It's the allogeneic chimeric antibody T cells which is produced by Allogene biotherapeutic. And the clinical trials are actually are known as ALLO by the number of the trial that they are and the ALLO stands for Allogene's.

Q. Okay. Does it say on the consent form that

ALLO stands for Allogene?

A. Yes. In the beginning of the consent form it explains that Allogene's biotherapeutic is sponsored and produced these products and we put in parentheses ALLO to identify the Allogene's biotherapeutic and also the name of the clinical trial as listed in any website and any document. It's A-L-L-O, dash, the number of the protocol.

Q. Does the A-L-L-O dash prefix ever referred to autologous CAR T cell treatment?

A. Not in the context of clinical trials that we're doing.

Q. Why not?

A. Because it could be associated with the company that's doing their trial.

Q. Doesn't Allogene also have autologous CAR T cell immunotherapy treatments?

A. I don't know. I'm not involved with that product.

Q. Okay. So Allogene doesn't have -- in your experience, Allogene does not have an autologous CAR T cell immunotherapy product?

A. I haven't worked with them in -- for that. I worked with Kite biopharma when they had CAR T cell products.

Q. Okay. So the consent form -- did the consent forms that you helped revise for Allogene, do any of them refer to autologous CAR T cell?

A. Not the ones I was involved with because the one I helped them on a consultant basis is just for allogeneic products and it's for leukemia, lymphoma and kidney cancer.

Q. Have you ever used the term "AUTOCAR T" with a patient?

A. No.

Q. And you don't know if the patient would understand the term "AUTOCAR T," correct?

A. I know they don't.

Q. How do you know that?

A. Because when I explain to the patients even in the terms, like, autologous that I have to explain what that means.

Q. Okay. But you've never used the term "AUTOCAR T" with a patient, correct?

A. They've seen it.

Q. I'm sorry. Which patients have seen it?

A. The patients that they're Googling everything and they do their own research before they come into the clinic.

Q. Which patient is that specifically?

Exhibit 2

Atara Biotherapeutics, Inc.
v.
Allogene Therapeutics, Inc.
Opposition No. 91247175 (Parent)
Opposition No. 91247177 (Child)
Declaration of Thomas L. Holt in Support of
Applicant's Response To Opposer's Appendix To Opposer's ACR Brief Regarding
Evidentiary Objections

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ATARA BIOTHERAPEUTICS, INC.,	)	Application No. 88/117,993
	)	Opposition No. 91247175
Opposer,	)	(Parent)
	)	Mark: ALLOCAR T
vs.	)	
	)	Application No. 88/117,972
ALLOGENE THEAPEUTICS, INC.,	)	Opposition No. 91247177
	)	(Child)
Applicant.	)	Mark: AUTOCAR T
	)	

—

30(B)(1) REMOTE DEPOSITION OF CHRISTINE CASSIANO

Volume II (Pages 136 - 188)

Tuesday, December 21, 2021

STENOGRAPHICALLY REPORTED BY:

SUSAN F. MAGEE, RPR, CCRR, CLR, CSR No. 11661

Job No. 10091312

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ATARA BIOTHERAPEUTICS, INC.,	)	Application No. 88/117,993
	)	Opposition No. 91247175
Opposer,	)	(Parent)
	)	Mark: ALLOCAR T
vs.	)	
	)	Application No. 88/117,972
ALLOGENE THEAPEUTICS, INC.,	)	Opposition No. 91247177
Applicant.	)	(Child)
	)	Mark: AUTOCAR T
	)	

30(B)(1) remote deposition of CHRISTINE CASSIANO, taken on behalf of Opposer beginning at 10:01 a.m. and ending at 10:56 a.m., on Tuesday, December 21, 2021 before SUSAN F. MAGEE, RPR, CCRR, CLR, CSR No. 11661.

institutional investors, patients, caregivers, competitors, anybody that actually has access to our social media handle which is -- it's an open handle, so pretty much anybody can see it.

MR. SALEN: Let's take a look -- I'm going to post another exhibit in the Chat.

Let me know when you're able to download that one.

THE WITNESS: Yes.

(Exhibit 32, Allogene Therapeutics Twitter Screenshot, marked for identification.)

BY MR. SALEN:

Q. And this exhibit, I'll represent to you, is a screenshot from Allogene's Twitter feed that I downloaded this morning.

A. Yes.

Q. Do you agree with me that that's what this appears to be a screenshot of?

A. I haven't looked at it this morning, but it does appear to be correct.

Q. There's a post at the top here from December 14th.

Is that the last Twitter post that was made by Allogene?

A. Yes, I believe so.

Q. So at the top of this Twitter feed there's a headline under the words "Allogene Therapeutics" and the Twitter handle that reads, "We are a clinical-stage biotechnology company pioneering the development of allogeneic CAR T ('AlloCAR T') therapies for cancer."

Do you see that?

A. I do.

Q. Did you approve that content?

A. Yes.

Q. And here is it fair to say that the term "allogeneic CAR T," the reason that it's followed by the words (Allo CAR T) is to indicate that Allogene identifies as allogeneic CAR T therapies using the term "Allo CAR T"?

A. We identify our specific allogeneic CAR T therapies or products as Allo CAR T, so specifically, not in general.

Q. Does Allogene also have -- or is Allogene also developing auto- -- autologous CAR T therapies?

A. It's something that's been in discussion with regard to the development of it, and so we've talked from a strategy perspective. We don't have anything currently in our pipeline, but it's been part of a discussion.

Q. So is the fact that it's not currently in your

pipeline the reason why autologous CAR T is not mentioned in the headline here?

A. That's correct.

Q. Let's take a look at the post from December 14th right below -- the first post, and this post references a hashtag ASH21 virtual exhibit.

Do you see that?

A. I do.

Q. What is the ASH21 hashtag? What does that reference?

A. That's for a medical meeting that just occurred. It's the American Society of Hematology.

Q. Who is the target audience for this particular post?

A. For that particular post, it would be likely investors for this one in particular.

Q. Does Allogene expect its investors to understand what the ASH21 conference is?

A. For our institutional investors they would know.

Q. Does Allogene -- I'm sorry. Finish your --

A. I was just going to say that's a hashtag, though, that is a searchable hashtag, so it wouldn't just be us with regard to what's happening at that meeting. It would be any company that was presenting at

that meeting and posting anything would reference the medical meeting and refer back to the hashtag so it becomes a searchable hashtag.

Q. Okay. Does Allogene expect patients to understand what the ASH21 conference is?

A. They may not know what ASH21 is, but it wouldn't prohibit them to click on any of the information and look at it.

Q. Do -- does Allogene attend the ASH21 conference? Did Allogene attend the ASH21 conference?

A. We did.

Q. Did any patients attend?

A. No, not to my knowledge, but I was there virtually, so I wouldn't be able to say what was on the floor.

Q. Let's take a look at the December 13th post which is just below this one.

A. Yes.

Q. This post is also about the ASH21 conference; correct?

A. It is.

Q. And who is the target audience for this post?

A. Well, I think you'll have to go back when you're looking at it, because you're looking at it and asking questions specifically about the medical meeting

under clinical trials.

So ALLO-501 or 501A, ALLO-715, ALLO-605, and ALLO-316, so it's very specific to Allogene, which is, again, how we use Allo CAR T and the name Allogene.

Q. You talked about -- earlier about some strategic discussions about the potential for future autologous CAR T therapies being developed by Allogene.

Do you remember that?

A. Yes.

Q. And currently I believe you said that there are no autologous CAR T therapies under development; correct?

A. That is correct.

Q. Has Allogene thought about what it will or talked about what it will call those specific drug candidates once they're in clinical trials with respect to an indicator? Like you have ALLO-501. Is there anything equivalent for autologous therapies?

A. We haven't talked about it.

Q. Does Allogene expect to use the term "ALLO" in front of the autologous CAR T therapies?

A. Well, I think because of the name Allogene, we likely would, but that's just, again -- that's not anything that we've specifically spoken of. But within most companies, you often use something that's

attributable to your company name as a differentiator in terms of what product is being investigated.

Q. Does Allogene expect to use the term "auto CAR T" in connection with its autologous CAR T therapies?

A. I think you're asking me to guess on something that hasn't been part of a strategic discussion internally since we don't have anything within the pipeline.

Q. So is it fair to say that Allogene has no intent to use the term "auto CAR T" in connection with any drug therapies?

A. I don't think that that's fair to say.

Q. So does that --

A. We've not had that conversation.

Q. Right. So because you haven't had that conversation, is it not fair to say that -- let me start over.

You haven't had the discussion as to whether or not Allogene intends to use the term "auto CAR T" in connection with any drug therapies; correct?

A. First of all, I thank you for not giving me a double negative.

Q. I tried.

A. The grammar and communications person in me

would not have appreciated that.

No, it goes back to what we had said. We don't have an auto CAR T within the pipeline right now, so it's not been necessary to have that conversation. We've talked about it at a very high level in terms of what our strategic direction may be. And when that time comes, I think it would be more appropriate to have that conversation. We have a lot of other things to worry about at this point in time. So having, you know, some -- that type of specific conversation hasn't been a priority.

Q. Okay. So then is it fair to say that Allogene hasn't formed an intent to use the term "auto CAR T" in connection with any of its drug therapy products?

A. I think --

MR. HOLT: Objection. Asked and answered.

BY MR. SALEN:

Q. You can answer.

A. I think it's fair to say that we've not had that conversation because we haven't -- we don't have anything, as I mentioned, within the pipeline right now, and we have other priorities that have really been where our focus is on.

Q. If Allogene had formed that intent to use the term "auto CAR T" as -- in your role at the company,

would you know about that intent?

MR. HOLT: Objection. Mischaracterizes prior testimony. Assumes facts not in evidence.

BY MR. SALEN:

Q. You can answer.

A. I would be part of that discussion. But again, I can only tell you that we don't currently have anything like that within our pipeline. So part of my job is to also make sure that from a strategic standpoint I'm prioritizing my asks of the company and discussions, and given everything that we're working on right now, until we have something of that nature in the pipeline, that discussion is not something I would -- I would push to the forefront.

Q. Thank you. And let's take a look at paragraph 7. Paragraph 7 says, "Upon FDA approval, Allogene intends to market its allogeneic CAR T therapies to cancer patients, oncologists and other medical professionals."

Did I read that correctly?

A. Yes, you did.

Q. And your marketing strategy includes three target audiences here; correct?

A. As listed on this one, yes.

Q. Are there other target audiences that you would

A. Worked for specifically or worked as an agency for as well?

Q. Start with worked for specifically.

A. Okay. Worked for specifically would be Allergan, Amgen, Abraxis Bio, APP Pharmaceuticals, Abraxis BioScience, Kite Pharma and Allogene.

Q. And which ones -- which drug companies have you worked for as an agency?

A. Pfizer, Merck, Vertex, Sarepta, Galderma, Neurocrine. I mean, it's probably, like, 30 companies. I'd have to go back through my client list. Medtronic. I mean, I have --

Q. That's fine.

A. Okay.

Q. And this statement applies to each of those companies that you worked for as an agency or a person?

A. As a general understanding in terms of the intent for patient education and marketing materials for an approved therapy.

Q. And then the next sentence you talk about patients being "empowered, now more than ever, to research available treatments for their disease," and then the sentence goes on.

Do you see that?

A. Yes.

Q. What do you mean by "empowered"?

A. Well, the Internet is an amazing thing. And, you know, it's a circumstance to where, you know, when I first started, there wasn't as easily, you know, some of the access to information. There's far more now, so they're more empowered now to do a quick Google search and learn more. And, you know, I'm sure everybody's heard of a patient being educated via WebMD, and that's sometimes a little bit dangerous. So, you know, they're empowered to ask a lot of questions as they should.

Q. Is the statement based on your personal knowledge?

A. Of working with patients? Or of my --

Q. Is the sentence -- the sentence that starts with "patients are empowered," I'm just trying to understand where you develop that knowledge.

A. I would say over 20-plus years in the industry.

Q. So it's based on experience, but do you have personal -- have you given surveys to patients?

A. I think I -- if I have to go back and look again as an agency person representing many biotech and pharmaceutical companies, we've done a vast number of surveys. You know, there was a -- in working for Pfizer for a cardiovascular trial, that was a trial that, you know, had to enroll tens of thousands of patients, so

there's a lot of different surveys and work that's done throughout that process, but I feel very confident in the statement given the length of my career and the work I've done.

Q. I understand that. I guess I'm asking a more specific question.

Have you given surveys to patients specific to determining whether or not they're empowered to -- now more than ever to research available treatments for their disease?

A. It's a funny question. I think action actually speaks more than -- would you give a survey to ask somebody, "Are you empowered," or would you ask within a survey what patients are doing to learn more, and so I think you would ascertain from what the action is versus do they feel empowered.

Q. What surveys have you given to determine the answer to the question, "Are patients empowered, now more than ever, to research available treatments for their disease?"

A. I don't think I understand your question.

Q. I'm just trying to understand, again, the basis for this statement other than a general experience.

Do you have any specific factual basis for this statement? So withdraw that.

Exhibit 3

Atara Biotherapeutics, Inc.
v.
Allogene Therapeutics, Inc.
Opposition No. 91247175 (Parent)
Opposition No. 91247177 (Child)
Declaration of Thomas L. Holt in Support of
Applicant's Response To Opposer's Appendix To Opposer's ACR Brief Regarding
Evidentiary Objections

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Atara Biotherapeutics, Inc., Opposer, v. Allogene Therapeutics, Inc., Applicant.	Application No. 88/117,993 Opposition No. 91247175 (Parent) Mark: ALLOCAR T
Atara Biotherapeutics, Inc., Opposer, v. Allogene Therapeutics, Inc., Applicant.	Application No. 88/117,972 Opposition No. 91247177 (Child) Mark: AUTOCAR T

ALLOGENE THERAPEUTICS, INC.'S RESPONSES TO ATARA BIOTHERAPEUTICS, INC.'S FIRST SET OF REQUESTS FOR ADMISSION (NOS. 1-25)

Pursuant to 37 C.F.R. § 2.120, TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE § 407, and Rules 26 and 36 of the Federal Rules of Civil Procedure, Applicant Allogene Therapeutics, Inc. ("Allogene" or "Applicant"), through its attorneys Perkins Coie LLP, responds to Opposer Atara Biotherapeutics, Inc.'s ("Atara" or "Opposer") First Set of Requests for Admission ("Request(s)") as follows:

RESERVATION OF RIGHTS

As to all matters addressed in these responses and objections, Applicant's investigation is ongoing, and the responses set forth below are based upon, and limited by, the information now available to Applicant. Applicant reserves the right to supplement, clarify, revise, or correct any

of its objections and responses in the event that it acquires additional or different information during discovery or preparation for trial. Applicant reserves the right to assert additional objections should Opposer clarify the Requests in response to Applicant's objections. Further, Applicant reserves the right during this proceeding to rely on documents, evidence, and other matters in addition to the information produced in response to these Requests, whether or not such documents, evidence, or other matters are newly discovered or are now in existence but have not been located despite diligent and good faith efforts.

GENERAL OBJECTIONS

The following objections apply to each and every Request propounded by Opposer and are incorporated into each of the following specific responses by reference as if set forth in full in response to each individual Request. Any repetition is for emphasis only and not to the exclusion of any other General Objection.

A. Applicant objects to the Requests to the extent they call for information that is protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or any other privilege, protection, or immunity provided by law ("Privileged Information"). Any response should be construed to exclude Privileged Information. Inadvertent disclosure of Privileged Information shall not constitute a waiver of, nor signify intent to waive, the applicable privilege, either as to the information or documents inadvertently disclosed or as to any other information or documents. Nothing contained in Applicant's responses is intended to be or should be considered a waiver by Applicant of any applicable protection.

B. Applicant objects to the Requests to the extent they are vague, ambiguous, or susceptible to varying interpretations.

C. Applicant objects to the Requests to the extent they use terms that are not defined or understood or seek information that is not relevant to the subject matter of this action.

D. Applicant objects to the Requests to the extent they are overly broad and unduly burdensome, not proportional to the needs of the case, or not reasonably calculated to lead to the discovery of admissible evidence in this matter.

E. Applicant objects to the Requests to the extent they are premature. Discovery is continuing in this action and Applicant has not completed its factual investigation. These responses are made in good faith and after diligent inquiry into the facts and information now known to Applicant as well as its present analysis of the case. However, documents that may be responsive to the Requests may not have been discovered yet. Accordingly, without asserting an obligation to do so, and without waiving the objections asserted herein, Applicant reserves the right to amend and/or supplement its responses as and when additional information is discovered. Additionally, because Applicant's responses are based on the information that it has identified to date, they do not preclude Applicant from relying on facts or documents discovered or generated pursuant to subsequent investigation and discovery.

F. Applicant objects to the Requests to the extent they seek information not within Applicant's possession, custody, or control, or not maintained by Applicant in its ordinary course of business. Applicant will provide only relevant, non-privileged information presently within Applicant's possession, custody, or control and that it is able to identify after a reasonable investigation.

G. Applicant objects to the Requests to the extent they seek information more efficiently and appropriately obtained through some other form of discovery.

H. Applicant objects to the Requests to the extent they are unreasonably cumulative or duplicative or ask for information that is already in Opposer's possession or obtainable from some other source that is more convenient, less burdensome, or less expensive.

I. Applicant objects to the Requests, and their Instructions and Definitions, to the extent they purport to impose any requirement or discovery obligation on Applicant greater or different than those imposed by the applicable rules of the Trademark Trial and Appeal Board ("Board").

J. Applicant objects to the definitions of "Allogene Therapeutics, Inc.," "Allogene," "You," "Your," or "Applicant" as overly broad, unduly burdensome, disproportionate to the needs of the case, vague, and ambiguous, to the extent the definitions purport to include all of Applicant's past predecessors, successors, subsidiaries, divisions, parents, owners, and affiliates, as well as past officers, directors, agents, trustees, employees, consultants, accountants, attorneys, representatives, and other persons or entities acting in whole or in part on behalf of any of the foregoing.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that You use the term "CAR" in Applicant's Marks as an acronym for the phrase "chimeric antigen receptor."

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that it uses the term "CAR" in Applicant's Marks as an acronym for the phrase "chimeric antigen receptor."

REQUEST FOR ADMISSION NO. 2:

Admit that You understand that the term "CAR T" is used by scientists implementing clinical trials for cancer treatments to describe chimeric antigen receptor T cell therapies.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it is vague and ambiguous, specifically as to the "scientists" referred to in this Request. Applicant further objects to this Request on the grounds that Applicant does not have personal knowledge of how all "scientists implementing clinical trials for cancer treatments" use the term "CAR T."

Subject to and without waiving these objections, Applicant states that, after making a reasonable inquiry, the information known or readily obtainable by Applicant is insufficient to enable Applicant to admit or deny this Request.

REQUEST FOR ADMISSION NO. 3:

Admit that You use the term AlloCAR T to describe allogenic chimeric antigen receptor T cell therapies for treating cancer.

RESPONSE: Subject to and without waiving its General Objections, Applicant denies that Applicant uses the term AlloCAR T to describe allogenic chimeric antigen receptor T cell therapies for treating cancer.

REQUEST FOR ADMISSION NO. 4:

Admit that You use the term AutoCAR T to describe autologous chimeric antigen receptor T cell therapies for treating cancer.

RESPONSE: Subject to and without waiving its General Objections, Applicant denies that Applicant uses the term AutoCAR T to describe autologous chimeric antigen receptor T cell therapies for treating cancer.

REQUEST FOR ADMISSION NO. 5:

Admit that You have used the term AlloCAR T in publications to describe immunotherapies based on allogeneic CAR T cells, as shown in Documents bearing Bates numbers ATI_ALLO_000001- ATI_ALLO_000003; ATI_ALLO_000004-ATI_ALLO_000005.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it is vague and ambiguous, specifically as to which "publications" are referred to in this Request other than those identified in the Documents bearing Bates numbers ATI_ALLO_000001- ATI_ALLO_000003; ATI_ALLO_000004-ATI_ALLO_000005.

Subject to and without waiving these objections, Applicant denies that Applicant uses the term AlloCAR T in publications to describe immunotherapies based on allogeneic CAR T cells, as shown in Documents bearing Bates numbers ATI_ALLO_000001- ATI_ALLO_000003; ATI_ALLO_000004-ATI_ALLO_000005.

REQUEST FOR ADMISSION NO. 6:

Admit that You have used the term AutoCAR T in publications to describe immunotherapies based on autologous CAR T cells, as shown in Documents bearing Bates numbers ATI_ALLO_000001- ATI_ALLO_000003; ATI_ALLO_000017- ATI_ALLO_000019.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it is vague and ambiguous, specifically as to which "publications" are referred to in this Request other than those identified in the Documents bearing Bates numbers ATI_ALLO_000001- ATI_ALLO_000003; ATI_ALLO_000017- ATI_ALLO_000019.

Subject to and without waiving these objections, Applicant denies that Applicant uses the term AutoCAR T in publications to describe immunotherapies based on autologous CAR T cells, as shown in Documents bearing Bates numbers ATI_ALLO_000001- ATI_ALLO_000003; ATI_ALLO_000017-ATI_ALLO_000019.

REQUEST FOR ADMISSION NO. 7:

Admit that you have not sold any goods or services in connection with either of the Applicant's Marks.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that Applicant has not sold any goods or services in connection with either of Applicant's Marks.

REQUEST FOR ADMISSION NO. 8:

Admit that you have not offered for sale any goods or services in connection with either of the Applicant's Marks.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that Applicant has not offered for sale any goods or services in connection with either of Applicant's Marks.

REQUEST FOR ADMISSION NO. 9:

Admit that you have not used Applicant's Marks to market any goods or services that are currently available for purchase in connection with either of the Applicant's Marks.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that Applicant has not used Applicant's Marks to market any goods or services that are currently available for purchase in connection with either of Applicant's Marks.

REQUEST FOR ADMISSION NO. 10:

Admit that the term "Allo" in U.S. Trademark Application Serial No. 88/117,993 is an abbreviation for the term "allogenic."

RESPONSE: Subject to and without waiving its General Objections, Applicant denies that the term "Allo" in U.S. Trademark Application Serial No. 88/117,993 is an abbreviation for the term "allogenic."

REQUEST FOR ADMISSION NO. 11:

Admit that the term "Auto" in U.S. Trademark Application Serial No. 88/117,972 is an abbreviation for the term "autologous."

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that the prefix "Auto" in the term AutoCAR T in U.S. Trademark Application Serial No. 88/117,972 is an abbreviation for the term "autologous." Howver, the term AutoCAR T, considered in its entirety, is a distinctive mark for Applicant and its applied-for goods.

REQUEST FOR ADMISSION NO. 12:

Admit that the term AlloCAR T is descriptive of the goods identified in U.S. Trademark Application Serial No. 88/117,993.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it requires Applicant to admit or deny a conclusion of law regarding whether AlloCAR T is descriptive.

Subject to and without waiving these objections, Applicant denies that AlloCAR T is descriptive of the goods identified in U.S. Trademark Application Serial No. 88/117,993.

REQUEST FOR ADMISSION NO. 13:

Admit that the terms AutoCAR T is descriptive of the goods identified in U.S. Trademark Application Serial No. 88/117,972.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it requires Applicant to admit or deny a conclusion of law regarding whether AutoCAR T is descriptive.

Subject to and without waiving these objections, Applicant denies that AutoCAR T is descriptive of the goods identified in U.S. Trademark Application Serial No. 88/117,972.

REQUEST FOR ADMISSION NO. 14:

Admit that each document Applicant has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247175 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that each document Applicant has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247175 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

REQUEST FOR ADMISSION NO. 15:

Admit that each document Applicant has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247175 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that each document Applicant has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247175 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 16:

Admit that each document Applicant has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247177 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that each document Applicant has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247177 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

REQUEST FOR ADMISSION NO. 17:

Admit that each document Opposer has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247177 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that each document Opposer has produced in response to Opposer's previously-served First Set of Requests for Production of Documents and Things in Opposition No. 91247177 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 18:

Admit that each document Applicant has produced in response to Opposer's previously-served Amended First Set of Interrogatories in Opposition No. 91247175 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that each document Applicant has produced in response to Opposer's previously-served Amended First Set of Interrogatories in Opposition No. 91247175 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

REQUEST FOR ADMISSION NO. 19:

Admit that each document Applicant has produced in response to Opposer's previously-served Amended First Set of Interrogatories in Opposition No. 91247175 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that each document Applicant has produced in response to Opposer's previously-served Amended First Set of Interrogatories in Opposition No. 91247175 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 20:

Admit that each document Applicant has produced in response to Opposer's previously-served Amended First Set of Interrogatories in Opposition No. 91247177 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that each document Applicant has produced in response to Opposer's previously-served Amended First Set of Interrogatories in Opposition No. 91247177 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

REQUEST FOR ADMISSION NO. 21:

Admit that each document Applicant has produced in response to Opposer's previously-served Amended First Set of Interrogatories in Opposition No. 91247177 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

RESPONSE: Subject to and without waiving its General Objections, Applicant admits that each document Applicant has produced in response to Opposer's previously-served Amended First Set of Interrogatories in Opposition No. 91247177 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 22:

Admit that each document Applicant has produced in the Present Proceedings in the identified range ATI_ALLO_0000001-ATI_ALLO000210 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it is duplicative of Request No. 14.

Subject to and without waiving these objections, Applicant admits that that each document Applicant has produced in the Present Proceedings in the identified range ATI_ALLO_0000001-ATI_ALLO000210 is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

REQUEST FOR ADMISSION NO. 23:

Each document Applicant has produced in the Present Proceedings in the identified range ATI_ALLO_0000001-ATI_ALLO000210 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it is duplicative of Request No. 15.

Subject to and without waiving these objections, Applicant admits that each document Applicant has produced in the Present Proceedings in the identified range ATI_ALLO_0000001-ATI_ALLO000210 is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

REQUEST FOR ADMISSION NO. 24:

Each document Applicant produces in the Present Proceedings, but which has not yet been produced by Applicant, is authentic for purposes of admission into evidence during the testimony period in this consolidated opposition proceeding.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it is premature because Applicant has not yet produced additional documents.

Subject to and without waiving these objections, Applicant can neither admit nor deny this Request after making a reasonable inquiry because it has not yet produced additional documents and thus cannot determine the authenticity of those documents.

REQUEST FOR ADMISSION NO. 25:

Admit that each document Applicant produces in the Present Proceedings, but which has not yet been produced by Applicant, is genuine pursuant to Rule 36(a) of the Federal Rules of Civil Procedure.

RESPONSE: In addition to its General Objections, Applicant objects to this Request on the grounds that it is premature because Applicant has not yet produced additional documents.

Subject to and without waiving these objections, Applicant can neither admit nor deny this Request after making a reasonable inquiry because it has not yet produced additional documents and thus cannot determine whether those documents are genuine.

Respectfully submitted,

Dated: July 22, 2020

By: /Craig A. Beaker/

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ATTORNEYS FOR APPLICANT
ALLOGENE THERAPEUTICS, INC.

CERTIFICATE OF SERVICE

The undersigned affirms that ALLOGENE THERAPEUTICS, INC.'S RESPONSES TO ATARA BIOTHERAPEUTICS, INC.'S FIRST SET OF REQUESTS FOR ADMISSION (NOS. 1-25) were served on Opposer Atara Biotherapeutics, Inc. by emailing a copy to Opposer's attorney of record, Jesse A. Salen of Sheppard Mullin Richter & Hampton LLP, at docketing@sheppardmullin.com and jsalen@sheppardmullin.com, as required pursuant to 37 CFR § 2.119 and TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE § 113.04, on the date set forth below.

Dated: July 22, 2020

/Craig A. Beaker/
Craig A. Beaker