

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BAUSCH HEALTH IRELAND
LIMITED, BAUSCH HEALTH US,
LLC; and BAUSCH HEALTH
AMERICAS INC.,

Plaintiffs,

v.

PADAGIS ISRAEL PHARMACEUTICALS
LTD; PADAGIS US LLC; and PADAGIS
LLC,

Defendants.

Civil Action No. 22-4248 (MCA) (AME)

DECLARATION OF JAMES BOOYDEGRAAFF

I, James Booydegraaff, hereby declare as follows:

1. I am the current Vice President of Channel Innovation at Padagis, LLC (“Padagis”).
2. In my role as Vice President of Channel Innovation, I am responsible for driving topline (Sales) and EBITDA (Margin) growth by cultivating channel partnerships and opening new market segments.
3. IQVIA is a global provider of data analytics in the life sciences industry. One of the services they provide is the National Medical and Treatment Audit (NMTA), which tracks the products, prescribed and/or administered, that are used to treat the patient’s condition, including capturing off-label uses. *See* Ex. 1038 (NMTA Fact Sheet). Individuals can use IQVIA’s NMTA information to understand the number of patient visits and diagnoses associated with patient visits by healthcare provider specialty.
4. IQVIA is a subscription-based service, and Padagis has a subscription to IQVIA’s services, including the provision of NMTA data. I am familiar with NMTA data provided by

IQVIA, and I have used NMTA data in my role at Padagis in the assessment of market opportunities, targeting, forecasting and competitive treatments.

5. Exhibit 1015 is a copy of IQVIA data regarding sales and prescriptions for topical tazarotene products, organized by indication, for the January 2017 through January 2018. IQVIA provided the data to Padagis at my request.

6. I am familiar with the type of data that is provided in Exhibit 1015. Padagis routinely utilizes IQVIA's data analytics services in the ordinary course of business to track sales and prescription level data for Padagis products as well as competitor products and other brands, review payer data, get insights on channel distribution and specialty prescription writers.

7. The data provided by IQVIA in Exhibit 1015 indicates that for every month between February 2017 and January 2018, topical tazarotene products with a concentration of 0.05% tazarotene were being sold for the indication of acne vulgaris. The sales data, which is referred to by IQVIA as National Sales Audit ("NSA") data, is provided in the form of the dollar amount sold for each month, as well as the number of units and extended units (Ext. units) sold for each month. Ext. units measure the number of single items (such as tablets, capsules, milliliters, grams, etc.) contained in a unit or shipping package purchased by providers and pharmacies.

8. IQVIA uses a classification system referred to as the "ICD-10 diagnosis classification" to track the prescription and usage of pharmaceutical products based on the disease the product is used to treat. *See* Ex. 1038. The ICD-10 code for acne vulgaris is L700X.

9. The data reflected in Exhibit 1015 indicates sales of topical tazarotene products with a concentration of 0.05% tazarotene, in both dollar amounts and unit volume, for the ICD-10

code associated with acne vulgaris for every month between February 2017 and January 2018. *See* Ex. 1015.

10. The data provided by IQVIA in Exhibit 1015 indicates that for February 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$3,851,260; 9,058 units; and 358,636 Ext. units.

11. The data provided by IQVIA in Exhibit 1015 indicates that for March 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$4,587,401; 12,454 units; and 466,350 Ext. units.

12. The data provided by IQVIA in Exhibit 1015 indicates that for April 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$3,312,441; 7,735 units; and 305,834 Ext. units.

13. The data provided by IQVIA in Exhibit 1015 indicates that for May 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$3,345,217; 7,850 units; and 309,246 Ext. units.

14. The data provided by IQVIA in Exhibit 1015 indicates that for June 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$4,502,529; 10,605 units; and 417,161 Ext. units.

15. The data provided by IQVIA in Exhibit 1015 indicates that for July 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$3,387,834; 7,978 units; and 312,556 Ext. units.

16. The data provided by IQVIA in Exhibit 1015 indicates that for August 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$3,680,557; 8,704 units; and 340,108 Ext. units.

17. The data provided by IQVIA in Exhibit 1015 indicates that for September 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$4,057,171; 9,588 units; and 375,406 Ext. units.

18. The data provided by IQVIA in Exhibit 1015 indicates that for October 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$3,381,283; 8,045 units; and 314,408 Ext. units.

19. The data provided by IQVIA in Exhibit 1015 indicates that for November 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$3,253,094; 7,867 units; and 300,047 Ext. units.

20. The data provided by IQVIA in Exhibit 1015 indicates that for December 2017, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$4,476,589; 10,457 units; and 411,771 Ext. units.

21. The data provided by IQVIA in Exhibit 1015 indicates that for January 2018, sales for topical 0.05% tazarotene compositions for treatment of acne vulgaris totaled \$2,962,967; 6,522 units; and 252,288 Ext. units.

22. Even though the data reflected in Exhibit 1015 indicates sales of topical tazarotene products with a concentration of 0.05% tazarotene, in both dollar amounts and unit volume, for the ICD-10 code associated with acne vulgaris for every month between February 2017 and January 2018, Exhibit 1015 indicates a “0” for the number of Total Prescriptions (“TRx”) and New Prescriptions (“NRx”) for topical tazarotene products with a concentration of 0.05% tazarotene for the treatment of acne vulgaris for those months. Based on information provided to me by IQVIA representatives, I understand that the reason for this is due to the differences in how IQVIA collects and analyzes its National Sales Audit (“NSA”) and National Prescription Audit (“NPA”) data.

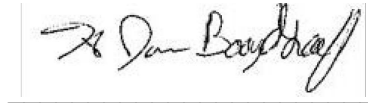
23. IQVIA collects NSA data tracking the sales of pharmaceutical compositions, which can be reflected in both dollar figures and unit volumes. When NSA data is collected, it can be associated with a diagnosis code, which corresponds to the disease which the composition is being sold to treat. I understand that NSA data is collected and tracked for pharmaceutical compositions for off-label sales, which are sales of a composition associated with a diagnosis code that is not an indication the composition has been approved to treat by the FDA.

24. For NPA data, IQVIA relies upon third-party data to link the prescribed product with the ICD-10 diagnosis codes; however, during the linking process, prescriptions may only be linked to an ICD-10 diagnosis code that is associated with an indication for which the FDA has approved for treatment with the product. Accordingly, if a product is prescribed for an off-label use, it will not be linked to an ICD-10 diagnosis code in IQVIA's NPA data. Because of this, the data reflected in Exhibit 1015 does not include data on the volume of TRx or NRx for prescriptions of topical 0.05% tazarotene for the treatment for acne vulgaris because such prescriptions are off-label.

25. Accordingly, it is my understanding that the data reflected in Exhibit 1015 indicates that topical compositions of 0.05% tazarotene were being prescribed and sold for the treatment of acne vulgaris in every month the between February 2017 and January 2018, even though Exhibit 1015 indicates a value of "0" for TRx and NRx of those compositions for acne vulgaris.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 17, 2023 in Kentwood, Michigan.

A handwritten signature in black ink, appearing to read "James Booydegraaff", enclosed within a rectangular box.

James Booydegraaff