

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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4 _____
5 ENDYMED MEDICAL LTD. And ENDYMED MEDICAL, INC.,
6 Petitioners,
7 v.
8 SERENDIA, LLC,
9 Patent Owner.
10 _____

11 Case IPR2024-00386
12 U.S. Patent No. 9,480,836
13 _____

14 REMOTE DEPOSITION of JEAN WOLOSZKO, Ph.D.
15 Thursday, May 29, 2025
16 8:57 a.m. CST
17
18
19

20 Job No.: 584706

21 Pages: 1 - 25

22 Reported By: Michelle M. Yohler, CSR, RMR, CRR

1 The deposition of JEAN WOLOSZKO, Ph.D., held
2 remotely pursuant to notice before Michelle M.
3 Yohler, CSR, RMR, CRR, a certified shorthand
4 reporter, CSR No. 84-4531.

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1 A P P E A R A N C E S

2 ON BEHALF OF PETITIONER:

3 MR. KYLE AUTERI, ESQUIRE

4 PEARL COHEN ZEDEK LATZER BARATZ LLP

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8 New York, New York 10036

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10

11 ON BEHALF OF PATENT OWNER:

12 MR. CHARLES H. SANDERS, ESQUIRE

13 LATHAM & WATKINS LLP

14 200 Clarendon Street

15 Boston, Massachusetts 02116

16 617.880.4500

17

18 ALSO PRESENT:

19 Mr. Rob Eboch, Technician

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E X A M I N A T I O N S

WITNESS

PAGE

JEAN WOLOSZKO, PH.D.

By Mr. Sanders.....

5

E X H I B I T S

EXHIBITS

PAGE

No. 2 Initial Determination on

Violation of Section 337 and

Recommended Determination on

Remedy and Bond.....

12

No. 1043 Supplemental Declaration of Dr.

Jean Woloszko in Support of

Petitioner's Reply to Patent

Owner's Response.....

6

1 P R O C E E D I N G S

2 (Technician read-on.)

3 (WHEREUPON, the witness was duly sworn.)

4 JEAN WOLOSZKO, Ph.D.,

5 called as a witness herein, having been first duly

6 sworn, was examined and testified as follows:

7 EXAMINATION

8 BY MR. SANDERS:

9 Q Good morning. Could you please state your
10 full name.

11 A Jean Woloszko.

12 Q What is your address?

13 A 4 Wren Valley Cove in West Lake Hills,
14 Texas.

15 Q Is there any reason you cannot testify
16 truthfully and accurately today?

17 A No.

18 Q Are you communicating in any other way
19 with other people besides through this Zoom?

20 A No.

21 Q And do you have any materials available to
22 you relating to this IPR?

1 A Right now, I don't have anything open on
2 my computer, no.

3 Q So we'll try to make this efficient,
4 Dr. Woloszko. We've spoken a number of times
5 before.

6 Let's take a look at your supplemental
7 declaration, which is Exhibit 1043.

8 A Okay.

9 THE TECHNICIAN: One moment.

10 BY MR. SANDERS:

11 Q We will put it on the screen, drop it in
12 the chat so you can download it. If there's
13 another way you prefer to review it, just let us
14 know.

15 (WHEREUPON, Exhibit No. 1043 was presented
16 to the witness.)

17 BY THE WITNESS:

18 A I'll download it, too, when it's
19 available.

20 (Exhibit management discussions were had
21 off the stenographic record.)

22

1 BY THE WITNESS:

2 A Okay. Yes. I have it.

3 MR. SANDERS: And we don't need to -- I
4 see you're labeling the exhibits, but we don't
5 need an exhibit label on this one because it's
6 already marked as Exhibit 1043.

7 THE TECHNICIAN: Okay. I think as far
8 as -- as far as my job for Planet Depos, anything
9 that's introduced into this deposition is marked
10 just so that they can track it. It doesn't
11 supersede your -- the marked already.

12 MR. SANDERS: I've done it differently
13 before, but that's fine. I don't care.

14 THE TECHNICIAN: Okay. Sorry.

15 BY MR. SANDERS:

16 Q So, Dr. Woloszko, you have your
17 supplemental declaration in front of you?

18 A Yes.

19 Q I'd like to direct your attention to
20 Paragraph 8, and specifically to the end of it on
21 Page 4.

22 A Okay. Yeah.

1 Q And in the last sentence you state:
2 "Results from Dr. Na's paper do not show the '836
3 patent excludes ablation or carbonization."

4 Do you see that?

5 A Yes.

6 Q For purposes of your opinions, did you
7 interpret the claims of the '836 patent to
8 encompass ablation or carbonization?

9 A For which purpose? In this declaration
10 you mean?

11 Q For purposes of the opinions that you
12 offered in support of invalidity of the '836
13 patent?

14 A Yeah, so can you just repeat the question
15 to make sure I answer it properly?

16 Q Sure. For purposes of your opinions, did
17 you interpret the claims of the '836 patent to
18 encompass ablation or carbonization?

19 A Yeah, I did not exclude -- I did not
20 exclude the ablation. I will call resection
21 because ablation, as you know, is too ambiguous.
22 I did not exclude resection or carbonization or

1 ablation like it says in Dr. Na's paper, as it's
2 not excluded in any fashion in any claim.

3 Q And you adopted the declaration of
4 Dr. B rub in this proceeding, right?

5 A Yes.

6 Q You're aware that Dr. B rub admitted that
7 the '836 patent does not involve ablation, right?

8 A It does not involve, but it does not
9 exclude.

10 Q My question was different.

11 You're aware that Dr. B rub admitted that
12 the '836 patent does not involve publication,
13 right?

14 A The '836 patent does not mention ablation.
15 Again, ablation being a very ambiguous term that,
16 as you know, I don't want to use for various
17 reasons we have discussed in the past.

18 But '836 patent discuss -- discusses
19 vaporization and carbonization and say it should
20 be avoided but doesn't exclude it.

21 Q And what do you mean by the '836 patent
22 says that vaporization and carbonization should be

1 avoided but doesn't exclude it?

2 A There was -- there was no -- nothing in
3 any of the claims that excludes carbonization or
4 vaporization.

5 The claims mention coagulation, but does
6 not say coagulation without any tissue resection,
7 ablation, reduce in tissue mass, or any other
8 terminology you can use to say that there is a
9 reduction in tissue.

10 Q Is it correct that your interpretation is
11 that the '836 patent claims do not exclude
12 ablation either?

13 A Yes.

14 Q You are aware that before you issued your
15 supplemental declaration, the administrative law
16 judge in the International Trade Commission issued
17 an initial determination, right?

18 A I was made aware during our last -- my
19 last deposition two weeks ago, yes.

20 Q Is that how you found out about the
21 initial determination, the deposition a couple of
22 weeks ago in the other IPRs?

1 A Yes.

2 Q So did EndyMed's counsel share the initial
3 determination with you in the course of your
4 preparing your supplemental declaration?

5 A I think this is -- how do you call --
6 attorney-client privilege, but it wasn't -- they
7 didn't share it with me, no.

8 Q And since you were informed about the
9 initial determination in your deposition, have you
10 reviewed it?

11 A No. Except for the little extract that
12 was shown to me obviously during the deposition
13 so...

14 Q Understood.

15 Let's take a look at the final initial
16 determination in the ITC. It is van der Weide
17 Exhibit 8. It's a large document. We'll put it
18 on the screen, drop it into the chat. I'm sure it
19 will take a moment to get there and a moment to
20 download.

21 MR. AUTERI: I'd just like to go on the
22 record that I object to this exhibit to the extent

1 it will be submitted with the surreply, as it's
2 not an exhibit that was already admitted in either
3 paper that's filed before us.

4 And, Mr. Sanders, if it's okay, can I
5 lodge a standing objection so I don't have to
6 interrupt you as you go through this document? Or
7 would you prefer I object as we go?

8 MR. SANDERS: Make your objections as
9 appropriate, Counsel. As you know, we've already
10 registered our objection due to EndyMed's failure
11 to submit this in connection with the prior
12 deposition.

13 MR. AUTERI: Understood.

14 (WHEREUPON, Woloszko Exhibit No. 2 was
15 presented to the witness.)

16 THE WITNESS: The document is not
17 available yet but --

18 THE TECHNICIAN: Should be finished
19 uploading in a few seconds.

20 THE WITNESS: Okay.

21 (Exhibit management discussions were had
22 off the stenographic record.)

1 MR. SANDERS: While we're waiting, you can
2 mark this as Woloszko Exhibit 2.

3 (Exhibit management discussions were had
4 off the stenographic record.)

5 BY THE WITNESS:

6 A Okay. Yes, I have it now.

7 BY MR. SANDERS:

8 Q And do you see -- so it's on the cover
9 page -- that this is the initial determination in
10 the U.S. International Trade Commission dated
11 December 19th, 2024?

12 A Yes.

13 Q I'd like to direct your attention to
14 Page 135.

15 A Okay. Let me get there.

16 Okay. Yeah.

17 Q Specifically to the paragraph at the top
18 of the page and to the first full sentence that
19 begins on Line 3.

20 A "Sufficiently routine"? Yes.

21 Q Are you looking at the page that has Page
22 Number 135 of 321 at the bottom?

1 A I'm looking at the same page as you have
2 on the screen here, yeah.

3 Q Yep, that's not the right --

4 A Okay. Yeah, okay, because it says 113.
5 So at the bottom --

6 THE TECHNICIAN: So which page number is
7 it supposed to say at the bottom, Counsel? I
8 apologize. I went to 135 in the --

9 THE WITNESS: (Indiscernible) PDF or 135
10 in the document?

11 MR. SANDERS: Yeah, it's 135 at the
12 bottom.

13 THE TECHNICIAN: At the bottom. Okay. I
14 see. One moment.

15 MR. SANDERS: Great.

16 BY MR. SANDERS:

17 Q Do you see on Page 135 three lines down
18 there's a sentence that begins: "Thus"?

19 A Yes.

20 Q You see the administrative law judge
21 stated in the initial determination: "Thus,
22 Ganz's approach of creating 'ablation holes'

1 (RX-0329 at [0006]), stands in contrast to the
2 '836 patent, which, as respondents' expert,
3 Dr. B rub , confirmed, 'does not involve
4 ablation.'"

5 You see that?

6 A I see that.

7 MR. AUTERI: Objection. This document was
8 not previously marked as an exhibit in this IPR
9 and it's outside the scope of Dr. Woloszko's
10 declaration.

11 MR. SANDERS: Thanks. Counsel, we
12 understand that you don't want the board to have
13 the benefit of this document, but if you could
14 limit your objections to the word "objection,"
15 we'd appreciate it.

16 MR. AUTERI: Just to confirm, if that is
17 acceptable to you, I will just say "objection," so
18 I don't waste anyone's time.

19 MR. SANDERS: Thank you.

20 BY THE WITNESS:

21 A The document B rub mentioned here, what
22 document is that? 1268?

1 BY MR. SANDERS:

2 Q Yes. Thank you. You see after the
3 sentence, there's a cite to the hearing transcript
4 where Dr. B rub testified at 1268:24 to 1269:1.

5 You see that?

6 A Yes. Okay. That's the hearing
7 transcript. Yes.

8 Q And the question that Dr. B rub was asked
9 was: "The patent, the '836 patent" -- it's
10 missing the words "in the investigation" -- "does
11 not involve ablation, correct?"

12 And the answer was: "That's correct."

13 Do you see that?

14 A Yes.

15 MR. AUTERI: Objection.

16 BY THE WITNESS:

17 A And just to repeat what I said, the term
18 "ablation" is -- doesn't mean at all -- for people
19 skilled in the art of radiofrequency medicine,
20 doesn't mean at all tissue removal. So I never
21 use this term because RF ablation means
22 basically -- and what FDA, we discussed that

1 previously, talks about coagulation necrosis.

2 But the '836 patent does not mention
3 ablation, that's correct; but '836 patent mentions
4 vaporization and carbonization.

5 BY MR. SANDERS:

6 Q Dr. Woloszko, did you just say you don't
7 use the term ablation?

8 A Usually not. I know in some places I
9 have -- I have done it, but usually in the -- in
10 my -- RF ablation is commonly used in the field of
11 radiofrequency to mean coagulation necrosis.

12 And I know it's been used -- talked during
13 this case and the ITC case many times, and I
14 probably have in the -- you know, followed people
15 and used -- and mentioned ablation maybe a few
16 times but incorrectly because normally I don't.

17 And if you remember my initial expert
18 report, I explain I spend a few -- I explain this
19 in detail why it is a very ambiguous term.

20 Q You used the term "ablation" in your
21 supplemental declaration in the paragraph we just
22 looked at a few moments ago, right?

1 A I know. I know. I did, yes. And it was
2 incorrect.

3 Q Who prepared your supplemental
4 declaration?

5 A I worked together with my legal counsels.

6 Q Did you review it to make sure that you
7 believed it was correct?

8 A Of course. And I should have changed this
9 term, but...

10 Q Let's take a look now at Page 130 of the
11 initial determination. And, again, I mean 130 at
12 the bottom.

13 And specifically I'd like to direct your
14 attention to the bottom of the page under the
15 heading "Coagulation Limitation," the last
16 sentence on Page 130.

17 A Mm-hm.

18 Q You see three lines from the bottom it
19 begins: "The '836 patent distinguishes"?

20 A Yes.

21 Q And it states: "The '836 patent
22 distinguishes the 'effect on the dermis' from

1 energy applied to cause the recited 'coagulation'
2 versus 'carbonization' and 'vaporization'?"

3 A Yes.

4 Q Do you agree?

5 A I agree that's what is written here. The
6 '836 mentions that. The '836 patent does not give
7 any limitation of what energy would cause
8 carbonization or vaporization.

9 And if you read the article in the subset
10 of the nature publication that Dr. Na wrote, he
11 mentions that within the parameters included in
12 the range of the '836 patent, he has achieved
13 carbonization of tissue within those ranges.

14 So I maintain that the patent does not
15 exclude that -- nor the claims or the sub claims
16 excludes carbonization.

17 Q I'd like to direct your attention to
18 Page 134.

19 MR. SANDERS: And let's go to the -- let's
20 show the text. You can stop there.

21 BY MR. SANDERS:

22 Q And you see -- let's go back to the images

1 actually for a moment at the top of the page.

2 Do you see on this page of the initial
3 determination there's a comparison of the Na
4 Nature paper that you discussed in your
5 supplemental declaration and a figure from the
6 Ganz reference?

7 A Yes.

8 Q And in the first sentence in the paragraph
9 underneath those figures, the administrative law
10 judge stated: "The '836 patent similarly
11 distinguishes approaches like the one taught in
12 Ganz."

13 Do you see that?

14 A Yes.

15 Q And you disagree with that, right?

16 A I don't disagree that it -- no, the '836
17 does distinguishes coagulation from vaporization
18 and carbonization, it does, with a difference.
19 But, once again, in -- there is no way in the
20 claim that any type of carbonization, vaporization
21 is excluded.

22 And when you do coagulation, basically you

1 have -- you always -- if you have done some of it,
2 you always see some steam because you will
3 basically always evaporate some of the extra
4 intracellular fluid in the tissue, and basically
5 this means that basically you have some level of
6 vaporization.

7 It's not just -- it's not just black and
8 white; there is a continuum. And when you do
9 coagulation, you reduce tissue mass because you
10 would provide -- you would induce tissue
11 desiccation just by doing coagulation through
12 heat.

13 So I maintain my position.

14 Q And you have not evaluated your opinions
15 in view of the administrative law judge's decision
16 that we're looking at here, right?

17 A No. No.

18 Q Okay.

19 A That's an opinion and I -- I respectfully
20 defer in my opinion.

21 MR. SANDERS: Thank you, Dr. Woloszko. No
22 further questions.

1 MR. AUTERI: I have no redirect or
2 anything of that sort, so I think that's it.

3 (WHEREUPON, the deposition was concluded
4 at 9:22 a.m. CST.)
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ACKNOWLEDGMENT OF DEPONENT

I, JEAN WOLOSZKO, Ph.D., do hereby
acknowledge that I have read and examined the
foregoing testimony and the same is a true,
correct, and complete transcription of the
testimony given by me and any corrections appear
on the attached errata sheet signed by me.

(SIGNATURE) (DATE)

1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2
3 I, MICHELLE M. YOHLER, a Certified Reporter
4 and Notary Public within and for the State of
5 Illinois do hereby certify:

6 That Jean Woloszko, Ph.D., the witness whose
7 deposition is hereinbefore set forth, was duly
8 sworn by me before the commencement of such
9 deposition and that such deposition was taken
10 before me and is a true record of the testimony
11 given by such witness.

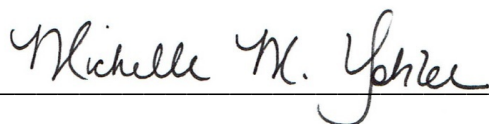
12 I further certify that the adverse party,
13 SERENDIA, LLC, was represented by counsel at the
14 deposition.

15 I further certify that the deposition of
16 Jean Woloszko, Ph.D., occurred remotely on
17 Thursday, May 29, 2025, commencing at 8:57 a.m.
18 to 9:22 a.m.

19 I further certify the inspection, reading
20 and signing of said deposition was not waived
21 on the record by agreement of all parties.
22

1 I further certify that I am not related to
2 any of the parties to this action by blood or
3 marriage, I am not employed by or an attorney to
4 any of the parties to this action, and that I am
5 in no way interested, financially or otherwise,
6 in the outcome of this matter.

7 IN WITNESS WHEREOF, I do hereunto set my
8 hand and affix my seal of office at Chicago,
9 Illinois, this 2nd day of June, 2025.

10
11
12 

13 Michelle M. Yohler, CSR, RMR, CRR

14 Certified Shorthand Reporter

15 CSR No.: 84-4531
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Transcript of Jean Woloszko, Ph.D.
Conducted on May 29, 2025

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Transcript of Jean Woloszko, Ph.D.
Conducted on May 29, 2025

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Transcript of Jean Woloszko, Ph.D.
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