

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	Investigation No.
CERTAIN PHOTODYNAMIC THERAPY SYSTEMS,	)	337-TA-1411
COMPONENTS THEREOF, AND	)	
PHARMACEUTICAL PRODUCTS USED IN	)	
COMBINATION WITH THE SAME	)	

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1 UNITED STATES INTERNATIONAL TRADE COMMISSION
2 Washington, D.C.
3 BEFORE THE HONORABLE BRYAN F. MOORE
4 Administrative Law Judge

5 _____
6 In the Matter of:) Investigation No.
7 CERTAIN PHOTODYNAMIC THERAPY SYSTEMS,) 337-TA-1411
8 COMPONENTS THEREOF, AND)
9 PHARMACEUTICAL PRODUCTS USED IN)
10 COMBINATION WITH THE SAME)
11 _____

12
13 International Trade Commission
14 500 E Street, S.W.
15 Washington, D.C.

16
17 Thursday, July 3, 2025

18
19 EVIDENTIARY HEARING - VOLUME IV

20
21 The Hearing commenced in Courtroom B, pursuant to the
22 notice of the Judge, at 9:01 a.m. Eastern.

23
24 Reported by: Karen Brynteson, FAPR, RMR, CRR

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

2 (9:01 a.m.)

3 JUDGE MOORE: Please be seated.

4 All right. Good morning. Let's start with the
5 exhibits. Did the e-mail go to the Court and to the
6 reporter this morning?

7 MR. GANGULY: Yes, Your Honor, it did.

8 JUDGE MOORE: Okay. So those are the
9 agreed-upon, so I assume no objections, and those exhibits
10 are admitted into the record.

11 (Exhibits, as submitted by counsel and reflected
12 in the attached index, were received into evidence.)

13 JUDGE MOORE: We're fine on time. We only have
14 one more, I guess, today.

15 So are there any housekeeping issues from
16 Complainant?

17 MR. GANGULY: Not from Complainant.

18 JUDGE MOORE: Yes.

19 MS. OKUN: None from Respondents, Your Honor.

20 JUDGE MOORE: All right. So let's bring -- well,
21 let's go briefly off the record and bring our witness.

22 (Discussion off the record.)

23 MR. GANGULY: Tuhin Ganguly from Desmarais on
24 behalf of the Complainant. Sun Pharma calls its last
25 witness, Dr. Nan Marie Jokerst.

1 JUDGE MOORE: Let's get you sworn in.

2 Whereupon--

3 NAN MARIE JOKERST,
4 having been first duly sworn/affirmed, was examined and
5 testified as follows:

6 THE WITNESS: I do.

7 DIRECT EXAMINATION

8 BY MR. GANGULY:

9 Q. Good morning, Dr. Jokerst.

10 A. Good morning.

11 Q. Can you please reintroduce yourself to the Court?

12 A. Yes. My name is Nan Marie Jokerst.

13 Q. All right. And, Dr. Jokerst, why are you here
14 testifying today?

15 A. I'm here to testify on the validity of the '512
16 and '028 patent in response to Dr. Grove.

17 Q. Okay. Now, Dr. Jokerst, there's a binder over
18 there. If you turn in your binder to the tab marked
19 CX-0014C, and just let me know when you're there.

20 A. I'm there.

21 Q. Okay. And, Dr. Jokerst, do you recognize this as
22 your Rebuttal Witness Statement of Dr. Nan Marie Jokerst?

23 A. Yes, I do.

24 Q. Okay. Can we turn to -- Mr. Sayres, please, to
25 CX-0014C.148. There you go.

1 Dr. Jokerst, do you recognize your signature at
2 the bottom of this page?

3 A. Yes, I do.

4 Q. Does this witness statement contain your own
5 answers from counsel?

6 A. Yes, it does.

7 Q. Are your answers true and correct, to the best of
8 your knowledge?

9 A. Yes.

10 Q. Can we please turn, Mr. Sayres, to CX-0014C.3
11 through 5. Just bring up 3, I think is fine.

12 Dr. Jokerst, you can look in your binder. 3.

13 Okay. Dr. Jokerst, is this a listing of the
14 documents cited in your witness statement?

15 A. Yes, it is.

16 Q. All right. And can we please bring up Question
17 and Answer 9 through 11.

18 And, Dr. Jokerst, can you briefly summarize your
19 opinions?

20 A. My opinions are that the claims that Dr. Grove
21 and Dr. Ehrenreich challenged the validity of are, indeed,
22 valid --

23 Q. Okay.

24 A. -- for the '512 and the '028 patents.

25 MR. GANGULY: And, Your Honor, we move to admit

1 CX-0014C into evidence.

2 MR. LANDMON: No objection, Your Honor.

3 JUDGE MOORE: All right. It is admitted.

4 (Complainant Exhibit Number CX-0014C was received
5 into evidence.)

6 BY MR. GANGULY:

7 Q. Dr. Jokerst, did you prepare any demonstratives
8 to aid in your testimony today?

9 A. Yes, I did.

10 Q. Please turn in your binder to CDX-0018C. And
11 what is this document?

12 A. These are my demonstratives.

13 Q. Okay.

14 MR. GANGULY: Pass the witness, Your Honor.

15 MR. LANDMON: Good morning, Your Honor. Chad
16 Landmon again for Biofrontera. May I proceed?

17 JUDGE MOORE: Yes.

18 MR. LANDMON: Thank you.

19 CROSS-EXAMINATION

20 BY MR. LANDMON:

21 Q. Good morning, Dr. Jokerst.

22 A. Good morning.

23 Q. You have testified that a POSA would not have
24 been motivated to modify Lundahl's device to incorporate
25 Larsen's panels with a reasonable expectation of success,

1 right?

2 A. Yes.

3 Q. And you're aware, right, that prior to the
4 issuance of your written statement in this investigation,
5 you're aware that the Patent Trial and Appeal Board, or the
6 PTAB, instituted Biofrontera's IPR petition for the '028
7 patent?

8 A. Yes.

9 Q. So if we can bring that up. That petition --
10 institution decision is RX-1374. Do you recognize that,
11 Dr. Jokerst?

12 A. I'm sorry, it's not on my screen. My screen is
13 dark.

14 Q. One second while we work out the technicalities.
15 MR. LANDMON: Shall we go off the record, Your
16 Honor?

17 JUDGE MOORE: Yes. Let's go briefly off the
18 record.

19 (Discussion off the record.)

20 JUDGE MOORE: All right. So back on the record.

21 MR. LANDMON: Thank you, Your Honor.

22 BY MR. LANDMON:

23 Q. Dr. Jokerst, do you recognize RX-1374 as the IPR
24 institution decision I just asked you about?

25 A. Yes.

1 Q. Okay. And if we could turn to page 20, so
2 there's a paragraph there starting with "Patent Owner also
3 challenges Petitioner's assertion." Do you see that?

4 MR. GANGULY: Objection, Your Honor. Counsel
5 can't just read in the IPR petition into the record. If he
6 wants to ask her questions and then use this to impeach in
7 some way, but it's improper to just read in the decision
8 from the Board.

9 MR. LANDMON: And I wasn't intending to read in.
10 I was just directing her to a paragraph.

11 JUDGE MOORE: All right. It's close, but I'll
12 overrule and we'll see where it goes.

13 BY MR. LANDMON:

14 Q. You see that paragraph right, Dr. Jokerst?

15 A. I see the -- portion of the paragraph that's on
16 my screen, yes.

17 Q. Okay. And you're aware that Sun Pharma, in its
18 preliminary response to the IPR petition, took the same
19 position that you were asserting here, that a POSA was not
20 motivated to combine the five-panel LED design with Lundahl
21 and did not have a reasonable expectation of success, right?

22 A. Yes.

23 Q. And if we can turn to the next page of the
24 decision, you're also aware that the PTAB rejected this
25 argument and found that, in fact, a POSA was motivated to

1 combine the flexible five-panel LED configuration with
2 Lundahl and had a reasonable expectation of success in doing
3 so, correct?

4 A. So could you restate the question, please?

5 Q. Sure. You're aware that the PTAB expressly
6 rejected your argument and found that, in fact, a POSA was
7 motivated to combine the flexible five-panel LED
8 configuration with Lundahl and had a reasonable expectation
9 of success in doing so, right?

10 A. My understanding is that the -- there's an
11 institution decision but not a final decision, and so I
12 think that -- my understanding of the IPR is that they want
13 to hear more, but they haven't made a final decision.

14 Q. Right. But you understand in that IPR
15 institution decision that they're looking -- that we're
16 looking at, the PTAB found that a POSA was motivated to
17 combine the flexible five-panel LED configuration with
18 Lundahl with a reasonable expectation of success, right?

19 A. Yes. The Petitioners persuasively asserted, yes.

20 Q. Thank you. Now, Dr. Jokerst -- we can take that
21 down for a minute -- you've also testified in your witness
22 statement that Dr. Grove failed to explain why a POSA would
23 have been motivated to look to Larsen to address the precise
24 issues Lundahl already solves, including uniformity, right?

25 A. Yes.

1 Q. And you're aware, right, that Sun Pharma, in its
2 preliminary response to the IPR petition, took that same
3 position that you're taking here?

4 A. Yes.

5 Q. And you were aware that when they instituted the
6 IPR, the PTAB rejected that argument, right?

7 A. Can you restate the argument, please?

8 Q. Restate the question. Is that what you're
9 asking?

10 A. Oh, yes. Sorry.

11 Q. Sorry.

12 A. Restate the question of the argument.

13 Q. Yeah, yeah.

14 A. Thanks.

15 Q. And you're aware that the PTAB expressly rejected
16 the argument, right?

17 A. Oh, I just didn't remember the argument, so if
18 you could just -- sorry, restate the argument.

19 Q. I'm sorry, now I understand what you said. And I
20 didn't quite hear what you said.

21 But the argument that a POSA would have been
22 motivated -- would not have been motivated to look to Larsen
23 to address the precise issues that Lundahl already solved,
24 including uniformity, the PTAB rejected that argument,
25 right?

1 A. So I'll confess I haven't memorized the PTAB
2 document, so if you can show me the section where it says
3 that, that would be super-helpful.

4 Q. Sure. So let's pull up on page 20, and there's a
5 paragraph starting "Based on our review." And I'll direct
6 your attention to the sentence starting "As Lundahl's device
7 is not flexible."

8 A. Yes. I see that.

9 Q. Okay. And you agree with my question that the
10 PTAB rejected your argument?

11 A. Yes, for the institution decision. Yes.

12 Q. Thank you. We can take that down.

13 Dr. Jokerst, let's turn to Lundahl, which is
14 RX-65, if we can have that brought up. And this is the
15 Lundahl reference that we've been discussing in this case,
16 right?

17 A. Yes, it is.

18 Q. And it was filed in the '90s and issued in 2001,
19 right?

20 A. That's correct, yes.

21 Q. And as of 2001, Lundahl discloses a PDT device
22 that uses fluorescent tubes, correct?

23 A. Yes.

24 Q. And Lundahl covers the BLU-U 4170D device, right?

25 A. The 4170D is one implementation of this patent,

1 yes.

2 Q. This patent covers the 4170D?

3 A. Yes.

4 Q. Okay. There was a problem with using fluorescent
5 tubes for PDT, right?

6 A. At the time of Lundahl, it was very useful.

7 Q. Yeah. But there was a known problem, right, that
8 fluorescent tubes had dark areas, right?

9 A. It was known that fluorescent tubes had dark
10 areas, yes.

11 Q. And that was a problem for PDT that needs uniform
12 light, right?

13 A. No. Lundahl was able to make a PDT -- was able
14 to create a patent in and then the BLU-U 4170D is a great
15 device for PDT.

16 Q. So let me have you focus on the question. So
17 understand a device was created, understand that Lundahl
18 discloses a device, and that device was used for PDT. What
19 I'm asking is you would recognize, right, that at the time
20 it was known that there was a problem with using fluorescent
21 tubes for PDT, because they had dark areas?

22 A. So it works fine for PDT.

23 Q. Okay. But were the dark areas a problem for PDT?

24 A. No. The PDT worked fine, even though there were
25 dark areas.

1 Q. Okay. Do you recall being deposed in this case?

2 A. Yes.

3 Q. Do you recall me asking you whether there was a
4 problem with fluorescent tubes at the time?

5 A. Yes, there's a problem with fluorescent tubes.
6 Yes.

7 Q. For PDT?

8 A. So fluorescent tubes can be used and have been
9 used for PDT.

10 Q. Do you recall me asking you at your deposition
11 whether there was a problem with fluorescent tubes being
12 used for PDT, and you telling me that, yes, they had dark
13 areas?

14 A. So that is very possible, yes.

15 Q. Okay. You don't recall that --

16 A. I don't recall.

17 Q. -- as you sit here today?

18 A. Yeah.

19 Q. Well, why don't we pull that up. If we can pull
20 up your transcript, and I'll turn your attention to page
21 141, lines 5 through 10.

22 You see I'm asking a question: "There was a
23 problem with fluorescent tubes, right?"

24 MR. GANGULY: Objection, Your Honor. If he's
25 refreshing recollection, then he shouldn't be reading it

1 into the record.

2 JUDGE MOORE: Well, this is impeachment.

3 MR. LANDMON: And thank you, Your Honor.

4 BY MR. LANDMON:

5 Q. And you said yes -- sorry. You said, "They have
6 a -- dark area, yes."

7 Do you see that?

8 A. Yes, that's a problem with fluorescent tubes
9 generally. That is absolutely true.

10 Q. And you'd agree that's a problem for PDT, right?

11 A. So it depends. You can create PDT with
12 fluorescent tubes, but there's going to be a dark area
13 nonetheless. That's well known for fluorescent tubes. But
14 you can still create a PDT device that works great with
15 fluorescent tubes.

16 Q. Yeah, so, again, I'm not asking if you can create
17 a device. What I'm asking is it was a known problem by a
18 POSA at the time, prior to 2015, that the dark areas in
19 fluorescent tubes were a problem for PDT?

20 A. So -- so if you want a larger area --

21 Q. So let me back up.

22 A. Well, I guess --

23 Q. If I can ask you a yes-or-no question.

24 A. Okay.

25 Q. Is it -- was it a known problem to POSAs prior to

1 2015 that the dark spots in fluorescent tubes were a problem
2 when being used with PDT?

3 A. No.

4 Q. Okay. That's your testimony as you sit here
5 today?

6 A. Yes.

7 Q. Okay. Let's switch gears a little bit. At some
8 point, fluorescent tubes became disfavored by the
9 government, right?

10 A. Yes.

11 Q. And that was prior to 2015?

12 A. Around that time, yes.

13 Q. Okay. There were essentially being banned by the
14 government, right?

15 A. I think it was the ballasts that were banned
16 first.

17 Q. I'm sorry?

18 A. I think it were the ballasts that were banned
19 first.

20 Q. Okay. The ballasts that you use with fluorescent
21 tubes?

22 A. Yes, that's right.

23 Q. Okay. And it's reasonable to say, wouldn't you
24 agree, that LEDs were becoming the clear alternatives to
25 fluorescents prior to 2015?

1 A. Yes.

2 Q. In fact, they were being favored in some ways,
3 right?

4 A. Yes.

5 Q. LEDs were attractive because they had better
6 power efficiency than fluorescents, right?

7 A. Yes, generally.

8 Q. And LEDs became more widely used for these
9 reasons as their costs came down, right?

10 A. Yes, that's correct.

11 Q. Okay. Let's bring up one of your demonstratives,
12 if I can ask you to bring up CDX-0018C.45.

13 This is one of the demonstratives you put forth,
14 Dr. Jokerst. And here you were illustrating areas of
15 reduced emission in fluorescent tubes in Lundahl's device,
16 right?

17 A. That's correct.

18 Q. And you actually have two ovals, I guess I'd say,
19 that are areas of reduced emission, right?

20 A. Yes, that's correct.

21 Q. And these are often referred to as Faraday dark
22 spaces, right?

23 A. Yes. Faraday dark spaces are one of the areas of
24 reduced emission near the cathodes.

25 Q. And Lundahl explicitly states these dark spaces

1 are located effectively behind the patient's ears, right?

2 A. Yes, that's what Lundahl says.

3 Q. Okay. And you'd agree that your illustrations in
4 the ovals here are not effectively behind patient's ears,
5 right?

6 A. They're maybe even with the patient's ear, yes.

7 Q. Okay. They're not effectively behind the
8 patient's ears, right?

9 A. Not effectively behind the patient's ears.

10 Q. Thank you. If we can now bring up slide 46.
11 It's your next slide.

12 So here you have an opinion that Lundahl teaches
13 an active emitting area, correct?

14 A. Yes.

15 Q. Okay. And you've got, obviously, two boxes drawn
16 and a smaller box that you have labeled "active emitting
17 area," right?

18 A. Yes, that's correct.

19 Q. You'd agree with me that Lundahl defines this as
20 the minimum therapeutically effective active area, right?

21 A. Yes, the active emitting area is the therapeutic
22 area.

23 Q. Okay. So maybe I could get you to answer just
24 yes or no to my question. You'd agree that Lundahl refers
25 to this as the minimum therapeutically active area, right?

1 A. What is -- I'm sorry, what is "this"?

2 Q. All right. You've labeled a box "active emitting
3 area," right?

4 A. Yes.

5 Q. But you'd agree with me that Lundahl calls that
6 area the minimum therapeutically active area, right?

7 A. Yes.

8 Q. And you'd agree with me that "minimum" typically
9 denotes the smallest possible value, right?

10 A. Yes.

11 Q. And there could be larger values, correct?

12 A. Yes.

13 Q. So let's turn to another demonstrative. I'd ask
14 you to turn to demonstrative 96.

15 Now, Dr. Jokerst, up on this slide near the top,
16 you say Larsen does not teach panels angled relative to the
17 center panel. Do you see that?

18 A. Yes.

19 Q. These green panels in the figure of Lundahl are
20 drawn in at an angle to the orange panel in the center,
21 correct?

22 A. They're at a slight arc, yes.

23 Q. They're at an angle, correct?

24 A. Yes.

25 Q. They're angled relative to the center panel,

1 correct?

2 A. In this figure, yes.

3 Q. Thank you. So we can take that down.

4 And let's actually bring up one more slide, slide
5 48.

6 So in this slide, Dr. Jokerst, and your
7 testimony, you have testified that Lundahl identifies
8 multiple features that, in your opinion, are required in the
9 Lundahl device to achieve uniform illumination, right?

10 A. Yes.

11 Q. Okay. And those features that you identify
12 include the U-shaped fluorescent tubes, spacing, reflectors,
13 and electrical system, including adjustable electronic
14 ballasts and a cooling system, right?

15 A. Yes.

16 Q. And it's your opinion that for the Lundahl
17 device, these are all needed to be used in an integrated
18 manner to achieve uniformity, correct?

19 A. Yes.

20 Q. Now, it's also your opinion that the Biofrontera
21 RhodoLED XL device is capable of uniformly illuminating a
22 treatment service -- surface, correct?

23 A. Yes.

24 Q. And one of the reasons for that is the
25 arrangement or spacing of its light sources, correct?

1 A. Yes.

2 Q. And the RhodoLED XL doesn't have a U-shaped
3 fluorescent tube, right?

4 A. That's correct.

5 Q. And the RhodoLED XL doesn't have nine reflectors
6 or any reflectors placed behind the light sources, right?

7 A. Yes, that's correct.

8 Q. The RhodoLED XL doesn't have the same electrical
9 systems or ballasts used in Lundahl, right?

10 A. That's correct.

11 Q. And it doesn't have the same cooling system as
12 used in Lundahl, right?

13 A. It has fans but likely not the same exact cooling
14 system.

15 Q. But it's still your opinion that the RhodoLED XL
16 uniformly illuminates a surface within the meaning of the
17 claims, right?

18 A. Yes.

19 Q. And we can take that down.

20 We're going to go back to Lundahl, so if I can
21 have RX-65 pulled up and focus on Figure 1 for a minute.

22 So Figure 1 of Lundahl shows a U-shaped PDT
23 device positioned around a patient's head, right?

24 A. Yes.

25 Q. And when the Lundahl device is used as shown in

1 Figure 1, the device has a higher intensity of light emitted
2 at the regions near the patient's forehead and chin,
3 correct?

4 A. Yes, in the curved region, which would be near
5 the forehead and the chin, yes.

6 Q. At the top and bottom?

7 A. Forehead and chin, yes.

8 Q. We could take that down, and let's go to another
9 demonstrative of yours. It's at 83, so CDX-0018C.83.

10 Now, Dr. Jokerst, you created this slide as well,
11 right?

12 A. Yes, I did.

13 Q. And you created the figures that appear in this
14 slide?

15 A. So the figures --

16 Q. I'm just asking you a yes-or-no question. Did
17 you create the figures that are on these slides?

18 A. Yes.

19 Q. And these figures don't exist, as you show them
20 here, in Larsen, correct?

21 A. That is correct.

22 Q. And you've illustrated in this demonstrative your
23 opinion that, when included in a combination with aspects of
24 Lundahl, Larsen's scan engine would move the light sources
25 with linear movements up and down along the longer axis of

1 the applicators, correct?

2 A. Yes.

3 Q. Larsen doesn't disclose whether the scan engine
4 causes movements up or down or side to side, correct?

5 A. That's correct.

6 Q. Larsen doesn't disclose a pattern of movement for
7 the scan engine, right?

8 A. He says it's a linear motion.

9 Q. But other than saying it's a linear motion, he
10 doesn't disclose any pattern of movement, correct?

11 A. That's correct.

12 Q. And Larsen doesn't disclose a range of movement
13 for the scan engine either?

14 A. No, he does not.

15 Q. Larsen doesn't disclose a rate of movement for
16 the scan engine either, right?

17 A. No, he does not.

18 Q. Larsen doesn't disclose specific time points for
19 movements of the scan engine, right?

20 A. That's correct.

21 Q. And you haven't provided any units for the time
22 lapse that you show in CDX-18C.83, right?

23 A. That's correct.

24 Q. And you haven't provided any dimensions for the
25 panels in CDX-18C.83, correct?

1 A. That's correct.

2 Q. And you also haven't provided any measurements
3 for the distance the light sources move in CDX-18C.83,
4 right?

5 A. That's correct.

6 Q. All right. We can take that down.

7 Let's turn to Larsen, which is RX-99. And if we
8 can put up Figure 1 on the screen. And we can probably
9 highlight it on -- yeah, thank you -- Figure 1.

10 Dr. Jokerst, it's your opinion that Larsen
11 teaches hinges 10 at the bottom of the applicators, not
12 between them, right?

13 A. Yes.

14 Q. You're aware that Larsen describes the features
15 10 as representing the invented device as a whole, right?

16 A. That's one line in Larsen, I believe, yes.

17 Q. Yeah, and if we can pull that up, I think that's
18 paragraph 69. Thank you.

19 And we see here shown in Figure 1, the invented
20 device is labeled as 10, right?

21 A. Yes.

22 Q. And, you know, I heard you say that's one.
23 Sorry, Larsen also refers to 10 as hinges, correct?

24 A. That's correct.

25 Q. So there's two references to hinges -- sorry.

1 Strike that.

2 In Larsen, there are two different references to
3 what 10 might be, correct?

4 A. Yes.

5 Q. Okay. You can take that down.

6 And you know that in the file history of the '512
7 patent, an examiner stated that the hinges were shown as
8 element number 20 in the figures, correct?

9 A. Yes.

10 Q. But it's your opinion that the examiner was just
11 mistaken, right?

12 A. I'm sorry, I didn't catch the last part of that.

13 Q. It's your opinion that the examiner was just
14 mistaken, right?

15 A. Yes.

16 Q. Now, it's also your opinion that Larsen doesn't
17 disclose or render obvious hinges on inner side surfaces of
18 panels, right?

19 A. Yes.

20 Q. Now, again, going back to the IPR institution
21 decision we were talking before, you understand that Sun, in
22 its preliminary response there, took the same position that
23 you're taking here, that Larsen does not teach or suggest
24 hinge structures on inner side surfaces of adjacent panels?

25 A. Yes.

1 Q. And you're aware that the PTAB rejected that
2 argument in its decision, right?

3 A. Again, I haven't memorized the PTAB institution
4 decision, so if you could show that to me, that would be
5 great.

6 Q. Sure. So if we can have the decision back up on
7 the screen, and I'll turn your attention to pages 18 and 19.
8 It's at the bottom of page 18. There's a paragraph starting
9 with "The Patent Owner contends," right?

10 A. Yes, I see that.

11 Q. Okay. And you see at the bottom that the PTAB,
12 in making the institution decision, describes "Petitioner
13 provides a reasonable argument that a skilled artisan,
14 considering Larsen's Figure 1, would have appreciated that,
15 even if the hinges in Larsen were not located on the inner
16 surface of the adjacent panels, placing hinges in that
17 location would have been a predictable means within the
18 skill of the art for flexibly connecting the panels."

19 You see that, right?

20 A. Yes.

21 Q. So the PTAB disagreed with your position here?

22 A. Yes.

23 Q. We could take that down. And let's actually go
24 back to Larsen, RX-99.

25 So I probably should have asked you this line of

1 questions before, but let's bring up Figure 1 again and
2 focus on your opinion regarding element 20. It's your
3 opinion that element number 20 points to regular row
4 arrangements as shown in Figures 2B and 2C of Larsen, right?

5 A. Yes.

6 Q. Okay. And if we could bring up Figures 2A
7 through D, they're all in a row.

8 You don't see any element 20 listed there, right?

9 A. In Figure 2, no.

10 Q. And -- yeah, just so we're clear, in Figures 2A,
11 2B, 2C, or 2D, you don't see anything relating to element
12 20, right?

13 A. There's not a number 20 pointing to any of those,
14 but those are the regular row arrangements of LEDs and
15 lasers.

16 Q. No, I understand that, but there is no element 20
17 listed there, right?

18 A. There's no number 20 pointing to any of those,
19 yes.

20 Q. Okay. So we can take that down.

21 Dr. Jokerst, you've also testified that it's your
22 opinion that Biofrontera copied embodiments of the asserted
23 patents in developing its RhodoLED, correct?

24 A. Yes.

25 Q. And your opinion as to alleged copying are based

1 on the assertion that Biofrontera had some sort of knowledge
2 of Sun's patents, right?

3 A. Yes.

4 Q. But you haven't testified about any direct
5 evidence showing that Biofrontera used that information to
6 develop their own products, right?

7 A. Yes, that's correct.

8 Q. And in making assertions about a copy, you also
9 rely on a prior court case between Sun Pharma and
10 Biofrontera, right?

11 A. No, I do not.

12 Q. If I could turn your attention to your rebuttal
13 witness statement at Questions 626 and 627. Do these
14 questions and answers refresh your memory as to whether you
15 relied on a prior court case between Sun Pharma and
16 Biofrontera for your copying opinion?

17 A. Yes. Maybe I don't understand the context of
18 "rely upon." So I was setting context for this. So if
19 "rely" means setting context, then the answer is yes.

20 Q. Okay. You discussed the court opinion, that is
21 part of your opinion as to why you believe that Biofrontera
22 copied. Is that an accurate statement?

23 A. So I was setting the context for the '616 -- for
24 the later evidence, so there's no direct evidence from the
25 previous court case.

1 Q. Yeah. So -- and that was my question. You have
2 no direct evidence from that prior court case that
3 Biofrontera used any information from Sun Pharma in
4 developing its products, right?

5 A. That's correct.

6 Q. Okay. We can take that down.

7 So, Dr. Jokerst, Lundahl's device has two longer
8 edges and two shorter edges, right?

9 A. That's correct.

10 Q. And it's your opinion that Lundahl teaches light
11 sources that are more closely spaced together on the top and
12 bottom edges which, your contention is, are the longer
13 edges, right?

14 A. I would say near the forehead and near the face,
15 because if the patient is laying down, top and bottom
16 doesn't make sense. But near the forehead and the chin,
17 then those are the longer edges.

18 Q. Okay. So it's your opinion that Lundahl's light
19 sources are more closely spaced together on the longer
20 edges. Is that right?

21 A. Yes.

22 Q. Okay. So let's assume that a POSA were to divide
23 up Lundahl's U shape and do a five-panel device. You would
24 agree that the short edges of the five panels would roughly
25 conform to the shape of the long edges of the fluorescent

1 tubes when treating a patient, right?

2 A. Yes.

3 Q. And if a POSA were to divide up that single U
4 shape of Lundahl in the five-hinge panels, the panels would
5 have a shorter edge on the top and bottom where the forehead
6 and chin of a patient would be, right?

7 A. Yes.

8 Q. And, again, turning back to the IPR proceeding
9 that we were talking about, you're aware that Sun, in its
10 preliminary response, took the same position that you take
11 here with respect to the longer and shorter edges of
12 Lundahl, correct?

13 A. Yes.

14 Q. And you're aware that the PTAB rejected that
15 argument, right?

16 A. That argument, I think I do remember, yes.

17 Q. Okay. Thank you.

18 MR. LANDMON: I have no further questions, Your
19 Honor.

20 JUDGE MOORE: All right.

21 MR. GANGULY: May I proceed, Your Honor?

22 JUDGE MOORE: Yes.

23 REDIRECT EXAMINATION

24 BY MR. GANGULY:

25 Q. All right. Dr. Jokerst, you were asked some

1 questions about higher intensity in regard to the Lundahl
2 reference. Do you recall that?

3 A. Yes.

4 Q. All right. So just so we can level-set here, why
5 don't we bring up the language of claim 1 of the '512 and
6 actually look at what the claim language says about higher
7 intensity. And I have here on the screen claim 1 from the
8 '512 patent.

9 And if we see down, at the bottom, there's the
10 element "wherein each of the at least five panels has two
11 first edges and two second edges shorter than the two first
12 edges, and the light sources are arranged such that a higher
13 intensity of light is emitted proximate the second edges
14 compared to the intensity of light emitted not proximate the
15 second edges."

16 Do you see that?

17 A. Yes.

18 Q. And so in the element, how many panels are
19 required to have higher intensity near the shorter edge?

20 A. Five panels.

21 Q. How many panels does Lundahl disclose?

22 A. Lundahl has one panel.

23 Q. Okay. And based on that alone, does Lundahl
24 disclose this element?

25 A. No.

1 Q. Does Lundahl disclose a higher intensity of light
2 near the shorter edge?

3 A. No.

4 Q. Okay. Now, where does Lundahl disclose a higher
5 intensity of light?

6 A. Along the longer edge.

7 Q. Does Lundahl disclose a higher intensity of light
8 along the entire length of the longer edge?

9 A. No, only in the curved or, he calls it, arcuate
10 region.

11 Q. Okay. So, Mr. Sayres, can we please bring up
12 CDX-18C.45. Right.

13 Counsel showed you this slide during the
14 cross-examination. Do you recall that?

15 A. Yes.

16 Q. And so you were asked some questions about this
17 area of reduced emission.

18 A. Yes.

19 Q. Do you see that? And why don't we go a few
20 slides back to slide CDX-18.43 so we can see how we get to
21 this slide that counsel showed you.

22 So now on CDX-18.43, which says Lundahl's region
23 active emitting area and low output area, do you see that?

24 A. Yes.

25 Q. What are you showing on this slide?

1 A. So I'm showing on this slide what Lundahl
2 characterizes as the area of uniform illumination, which is
3 the active emitting area, which is only the curved region.
4 So Lundahl says that the two straight areas of this
5 illuminator on the left and the right, the two arms, are a
6 low output area.

7 So that horizontal dashed and dotted line
8 separates the active emitting area, the arc, from the arms,
9 which are low output areas.

10 Q. Okay. And so can we advance the slide one to
11 CDX-18C.44.

12 All right. And, Dr. Jokerst, what are you
13 showing here on this slide that's titled Lundahl's Areas of
14 Reduced Emission?

15 A. So these are the areas that Lundahl has
16 identified as areas of reduced emission. I guess I should
17 have made my oval all the way up to the horizontal line, but
18 those are the straight --- left and right arms are the areas
19 of reduced emission.

20 Q. Okay. And how, if at all, do the areas of
21 reduced emission impact your opinion as to whether Lundahl
22 discloses a higher intensity of light along the entire
23 longer edge?

24 A. Well, Lundahl makes no assertions regarding the
25 relative intensity of the tubes in the areas of reduced

1 emission. So we can't say that there's a higher intensity
2 along even the longer edge in the areas of reduced emission.
3 Lundahl makes no claims about the areas of reduced emission.

4 Q. Okay. And, Dr. Jokerst, you were asked some
5 questions about dividing Lundahl up into five panels and,
6 you know, shorter edges lining up with an edge of Lundahl.

7 Do you recall that?

8 A. Yes.

9 Q. And did you provide a slide showing what that
10 would actually look like if you did that?

11 A. Yes, I did.

12 Q. Mr. Sayres, can we please bring up CDX-0018C.80.
13 8-0.

14 All right, Dr. Jokerst, can you please explain
15 what you're showing on CDX-18.80 here?

16 A. Yes. So Lundahl is very specific in his areas of
17 the maximum emitting area over the entire tube and the
18 active emitting area over the curved region, which is the
19 area of uniform illumination. So if we sort of lay Lundahl
20 flat, if we undo the curve, I'm showing on the right the
21 areas that Lundahl explicitly identifies in the patent.

22 And so the maximum emitting area includes those
23 two arms with the dark regions. And so I've colored those
24 in gray. And then the active emitting area, which is the
25 curved area, the central region, is -- I show in a blue box.

1 Q. Okay. And so on the image in the bottom right,
2 you have I think what you just described as Lundahl sort of
3 unfurled into a rectangle. And then you've divided it into
4 five sections.

5 Do you see that?

6 A. Yes, five even sections.

7 Q. Okay. So if you divided Lundahl into five
8 panels, where would the -- the outer-most panels of that
9 combination fall?

10 A. So on the first panel and on the fifth panel.

11 Q. And when you say the first panel and the fifth
12 panel, so we know what we're talking about, you're talking
13 about the left-most gray rectangle and the right-most gray
14 rectangle?

15 A. Yes.

16 Q. And so in those areas, would there be a higher
17 intensity of light emitted from the shorter edges shown in
18 those areas?

19 A. No. Lundahl makes no claims as to the relative
20 intensity of the tubes in those areas.

21 Q. And so if you simply divided Lundahl, single
22 curved panel, into five panels, would you meet the element
23 of a higher intensity of light proximate the shorter edges
24 on the five panels?

25 A. No, not on the five panels.

1 Q. Now, you said earlier that Lundahl teaches a
2 higher intensity of light, at least along a portion of the
3 -- of his longer edge. Right?

4 A. The forehead and the chin in the curved areas,
5 yes.

6 Q. Okay. So if a person of ordinary skill in the
7 art were motivated to divide Lundahl's single panel into
8 five panels, as suggested by counsel, where would a POSA be
9 motivated to put the higher intensity of light in accordance
10 with Lundahl's teachings?

11 A. Well, Lundahl teaches a higher intensity at the
12 longer edges, so a higher intensity at the longer edges of
13 those five panels would make sense, given Lundahl.

14 Q. And when you say the longer edges, you're talking
15 about the edges in between the five panels; is that what
16 you're referring to?

17 A. And at the outside of the panels, yes.

18 Q. Okay. And would there be a technological reason
19 for providing a higher intensity of light at the longer
20 regions in this combination in accordance with Lundahl's
21 teachings?

22 A. Well, yes. When you go to panels, now you've got
23 a separation between those panels, and so you're going to
24 create a dark space because of the separation of the
25 emitters between those panels. And so a higher intensity at

1 the longer edges make sense.

2 MR. LANDMON: Objection, Your Honor, and move to
3 strike the last question and answer. There's nothing in her
4 report about a technological reason as to why to put the
5 higher intensity of light on those edges of the panel.

6 JUDGE MOORE: All right.

7 MR. GANGULY: Your Honor, it's actually -- I can
8 -- let me bring up where it is in the demonstrative, and
9 then we can get the citation from the witness statement too.

10 JUDGE MOORE: All right.

11 MR. GANGULY: So, Mr. Sayres, can you please
12 bring up CDX-18.77.

13 And so, Your Honor, this is showing exactly what
14 Dr. Jokerst just talked about, about putting Lundahl in --
15 combining Lundahl's teaching of a longer -- a higher
16 intensity on the longer edge in this five-panel device. You
17 can see Lundahl's teaching of the spacing of the tubes and
18 the combination in the five-panel device. So --

19 JUDGE MOORE: Okay. The objection was to the
20 explanation of technological reason for providing, so this
21 is -- this is -- this is a drawing. This doesn't support
22 the testimony. So do you have testimony that supports it?
23 It's also a demonstrative, so it's not evidence, but I
24 understand it cites to evidence.

25 MR. GANGULY: If I could have just a moment, Your

1 Honor.

2 JUDGE MOORE: Yes.

3 (Discussion off the record.)

4 MR. GANGULY: Your Honor, just to keep things
5 moving, we'll withdraw the question. I think we're fine.

6 JUDGE MOORE: Okay. So the, I guess, motion to
7 strike is granted, then. The question and answer are
8 stricken.

9 MR. LANDMON: Thank you, Your Honor.

10 BY MR. GANGULY:

11 Q. All right. Mr. Sayres, can we please bring up
12 CDX-0018C.83.

13 Dr. Jokerst, you were asked about this slide
14 during cross-examination. Do you recall that?

15 A. Yes.

16 Q. Okay. And you were asked some questions about
17 whether Larsen discloses if the scan engine moves up and
18 down or left or right. Do you recall that?

19 A. Yes.

20 Q. Can we go back one slide to CDX-0018C.82.

21 Dr. Jokerst, what are you showing here on slide
22 82, which is talking about the Larsen scan engine?

23 A. I'm showing here why the scan engine moves up and
24 down. So that's what I'm showing, unless you want me to
25 explain it.

1 Q. Please do.

2 A. Okay. All right. So the scan engine is 66, that
3 little round piece here (indicating). And when we're on the
4 arm that we see in Figure 1, the Larsen indicates that that
5 arm can move down to address a patient. And so Larsen is
6 actually -- I'm turning Larsen 90 degrees. Larsen is
7 incident on a wound. And so when we turn that scan engine
8 onto the wound as shown, the scan engine is a little roller
9 that moves the printed circuit board with the LEDs and
10 lasers up and down inside the applicator. So that's what
11 Larsen is showing here in Figure 3.

12 Q. Okay. And so if we go to the next slide, which
13 was shown to you, CDX-18C.83, what are you illustrating on
14 this slide?

15 A. So I did not use Larsen's regular row arrangement
16 of LEDs and lasers, of emitters. I used Dr. Grove's sort of
17 made-up array of -- or arrangement of light sources. And so
18 I'm showing the scan engine, how the scan engine would move
19 that printed circuit board up and down inside the applicator
20 as indicated by Larsen.

21 So at T equals 0, I started it in the middle.
22 And at T equals 1, the printed circuit board moves up. Now,
23 Larsen indicates that what he's doing is providing radiation
24 on previously unirradiated spaces. So by moving this panel
25 -- I'm sorry -- by moving the printed circuit board inside

1 the applicator, he is leaving when he goes -- when the scan
2 engine moves the printed circuit board up is leaving
3 unirradiated area at the bottom. And then as we go to T
4 equals 2 and T equals 3, as the scan engine moves that
5 printed circuit board down inside the applicator, there then
6 we're leaving an area of unirradiated space or area up at
7 the top.

8 So what happens if you look at a cross T-1, 2, 3,
9 0, 1, 2, 3, the applicator always has some emitters from
10 that printed circuit board in the middle. And so the middle
11 is always irradiated; whereas the top and the bottom is, at
12 some point during the scan engine motion, not irradiating
13 the top and the bottom.

14 Q. Okay. So I appreciate the explanation.

15 So just to kind of -- to talk about a few
16 specifics, you mentioned that here you're showing the LEDs,
17 which are -- are those the black circles on the surface of
18 the printed circuit board?

19 A. Yes, those are the black filled-in dots.

20 Q. Okay. And in Larsen, how are those -- in the
21 actual Larsen reference, how are those spaced?

22 A. That is a regular row arrangement. This is not
23 from Larsen.

24 Q. Okay.

25 A. The printed circuit board image.

1 Q. And so in this spacing, are you using the spacing
2 of LEDs that has been proposed by Dr. Grove?

3 A. Yes, that's correct.

4 Q. Okay. So in Larsen -- so as Larsen is --
5 actually discloses the spacing of LEDs and the scan engine,
6 does the Larsen reference, as it is, disclose a higher
7 intensity of light near the shorter edges of its
8 applicators?

9 A. No.

10 Q. Okay. And even if you spaced the LEDs in Larsen
11 in accordance with Dr. Grove's opinions, would there be a
12 higher intensity of light near the second shorter edges?

13 A. No.

14 Q. Okay. All right, Dr. Jokerst. You were asked
15 some questions -- so why don't we stick with the Larsen
16 reference. And you were shown -- if we can bring up
17 Larsen's paragraph 69, which is RX-0057.11 at 69.

18 You were shown this paragraph during your
19 cross-examination. Do you recall that?

20 A. Yes.

21 Q. And here in this paragraph, Larsen says, invented
22 device 10. You were shown that. Do you recall that?

23 A. Yes.

24 Q. Okay. Now, can we go to Figure 2. I'm sorry,
25 can we go to Larsen's figures on page 2. So RX-0057.2. And

1 can we zoom in in the central picture. Okay.

2 Now, in Figure 1, do you see that there's an
3 element 10 that's listed?

4 A. Yes.

5 Q. And what does Larsen say that element 10 is?

6 A. Hinges.

7 Q. Okay. And so if we turn to your slide
8 CDX-0018C.59, what are you showing on this slide?

9 A. I'm showing the text on the right where Larsen
10 identifies hinges 10.

11 Q. Okay. And so there is -- so Larsen does say
12 invented device 10, and Larsen also says hinges 10. Is that
13 true?

14 A. Yes.

15 Q. Okay. And you were asked a question about what
16 the examiner referred to hinges -- the fact that the
17 examiner referred to hinges as 10 during the prosecution of
18 the '512 patent. Do you recall that?

19 A. I think the examiner said hinges 20.

20 Q. I'm sorry. I misspoke.

21 The examiner said hinges 20 during the
22 prosecution of the '512 patent. Do you recall that?

23 A. Yes.

24 Q. Okay. And was there ultimately a Notice of
25 Allowance that was issued in the '512 patent?

1 A. Yes, there was.

2 Q. Okay. Can we bring up slide CDX-18.62.

3 Dr. Jokerst, on this slide, is that the -- is
4 that a section from the Notice of Allowance in the '512
5 patent?

6 A. Yes, it is.

7 Q. And what are you showing from the Notice of
8 Allowance?

9 A. I highlighted here that it's the opinion of the
10 examiner that the art of record neither anticipates nor
11 renders obvious "nested hinges on inner side surfaces of
12 adjacent panels."

13 Q. Okay. And so how -- so was Larsen art of record
14 in the '512 patent?

15 A. Yes.

16 Q. And so how, if at all, does this Notice of
17 Allowance factor into your opinion as to whether the
18 examiner -- whether the examiner was mistaken when they said
19 hinges 20?

20 A. Well, because the art of record, as indicated
21 here, is the opinion of the examiner is neither anticipated
22 nor rendered obvious, and Larsen was part of the art of
23 record, it indicates to me that the examiner was mistaken
24 when they said hinges 20.

25 Q. Now, was the examiner of the '512 patent also the

1 examiner for the '028 patent?

2 A. Yes.

3 Q. And during the prosecution of the '028 patent,
4 was Larsen also considered?

5 A. Yes.

6 Q. And in the prosecution of the '028 patent, what
7 did that same examiner refer to the hinges as?

8 A. Hinges 10.

9 Q. Can we bring up slide CDX-18.64, so we can see
10 what you're talking about.

11 Dr. Jokerst, what are you showing on slide 64
12 here?

13 A. This is part of the office action from the '028
14 prosecution. And I've highlighted where the examiner in
15 their office action of November 18th, 2022, said "hinged
16 structures 10."

17 Q. Now, Mr. Sayres, can we please bring up slide
18 CDX-18C.59 again. All right.

19 As we see on this slide, Dr. Jokerst, the Larsen
20 reference refers to 10 as hinges. Do you see that?

21 A. Yes.

22 Q. So is there any other evidence that you saw that
23 supports your conclusion that 10 is actually referring to
24 the location of the hinges?

25 A. Yes.

1 Q. And what is that?

2 A. There is an Australian patent application with a
3 figure that was very, very similar to Figure 1. Also the
4 sole inventor was Larsen. And that figure also had a
5 hinges -- I think the number was 27 and points to the same
6 place.

7 Q. Okay. And so just -- so that we can visually see
8 what you just described, can we please bring up
9 CDX-0018C.65, Mr. Sayres.

10 And what are you showing on this slide,
11 Dr. Jokerst?

12 A. So on this slide, I'm showing that Larsen
13 Australian patent application, and I'm showing the figure
14 that is very similar to Figure 1 of the Larsen reference
15 that we're looking at in this case. And it's hinges 27.
16 And it's in claim 19 of Larsen, a flat applicator 25
17 consisting of a number of individual hinged 27 flat
18 elements. So 27 is, again, pointing to hinges, just as 10
19 points to hinges.

20 Q. Okay. You were asked about element 20 in the
21 Larsen application, the U.S. Larsen application, and what
22 that was. Can we bring up CDX-18C.63.

23 All right. What does the Larsen reference or the
24 Larsen application refer to element 20 as?

25 A. Light sources 17 are placed in regular row

1 arrangements, i.e., 20. So 20 are regular row arrangements
2 of light sources.

3 Q. Dr. Jokerst, you were asked a question about the
4 placement of hinges between two panels. Do you recall that?

5 A. Yes.

6 Q. And what type of -- what type of device are we
7 talking about in this investigation?

8 A. Well, in this investigation, the asserted patents
9 are talking about photodynamic therapy devices, PDT devices,
10 which are medical devices.

11 Q. Okay. And so if a person of ordinary skill in
12 the art were attempting to connect two adjacent panels in
13 the context of a PDT device, would they put a hinge in
14 between the panels?

15 A. So it's not the first place I would think about
16 putting them, honestly, because when you have panels, when
17 you put something between the panels, now you've got gaps.
18 And a PDT device is a medical device that you're going to
19 illuminate a person's face with. And it has got a high
20 specification for the uniformity of that illumination so the
21 treatment is -- goes well.

22 And so by putting something between the panels,
23 now you're creating some of those optical dark spaces that
24 are problematic for uniform illumination. So between panels
25 is not a place where I would put hinges.

1 MR. LANDMON: Objection, Your Honor, and move to
2 strike as beyond cross. I didn't ask her questions about
3 where you would locate. I did ask, you know, about this
4 figure that we've been discussing in Larsen. The testimony
5 we've gotten over the last minute or two in response to this
6 question was much broader than anything in the cross.

7 MR. GANGULY: Your Honor, Dr. Jokerst was asked
8 about the hinge locations in Larsen and then was shown the
9 PTAB's IPR decision about where -- about hinge locations.
10 And so this is just in response to what was asked on
11 cross-examination.

12 JUDGE MOORE: Okay. Overruled.

13 BY MR. GANGULY:

14 Q. All right, Dr. Jokerst, you were also shown slide
15 CDX-0014C.73.

16 If we could bring that up, Mr. Sayres. Sorry,
17 73. Thank you. 85. I apologize.

18 Do you recall being shown this slide during your
19 cross-examination, Dr. Jokerst?

20 A. Yes.

21 Q. Okay. Now, in the Lundahl reference, how does he
22 achieve a uniformity measurement that's in line with the
23 construction of uniformity in this investigation?

24 A. Well, Lundahl emphasizes in his patent that it's
25 -- a PDT device is a device with very strict specifications.

1 And so to achieve uniform illumination, there have to be
2 integrated a number of aspects of the device to achieve that
3 highly specific uniform illumination. So he talks about
4 multiple aspects that have to be integrated together to
5 achieve that uniform illumination.

6 Q. All right. And does Mr. Lundahl say anything
7 about -- or does the Lundahl reference actually say anything
8 about the integration of components in the context of PDT in
9 the specification of that patent?

10 A. Yes, he does.

11 Q. Mr. Sayres, can we please bring up the column 4
12 of the Lundahl reference. So -- so in column 4, can we
13 highlight the paragraph that starts at line 12. Okay. Yes.

14 And in column 4, Dr. Jokerst, in the Lundahl
15 reference beginning at line 12, what does the Lundahl
16 reference say about the integration of components?

17 A. Well, Lundahl points out that "the present
18 invention differs from conventional light sources because of
19 the biological requirements imposed on a PDT light source.
20 A much higher degree of precision and integration is
21 required for the components of the present invention."

22 Q. Okay. And so, in your opinion, Dr. Jokerst, does
23 Lundahl -- does any one component disclosed in Lundahl allow
24 him to achieve the uniformity -- achieve uniformity within
25 the tolerance as has been defined in this investigation?

1 A. No, no single aspect of the invention does.

2 MR. GANGULY: Your Honor, could I have just one
3 moment to confer?

4 JUDGE MOORE: Certainly.

5 MR. GANGULY: Pass the witness, Your Honor.

6 MR. LANDMON: May I proceed, Your Honor?

7 JUDGE MOORE: Yes.

8 RE CROSS-EXAMINATION

9 BY MR. LANDMON:

10 Q. Dr. Jokerst, you wouldn't typically incorporate
11 the shortcomings of a prior device when you're developing a
12 new device, right?

13 A. That's correct.

14 Q. So I'd like to pull up -- you were asked a few
15 questions on your slide CDX-0018C.82, if we could bring that
16 up.

17 And you recall being asked about the scan engine
18 movements?

19 A. Yes.

20 Q. Okay. You drew the red arrows on this, right?

21 A. Yes, that's correct.

22 Q. Okay. And Larsen doesn't state anything about
23 moving up and down, right?

24 A. No, not specifically up and down. He specifies
25 linear motion.

1 Q. Okay. And if we could bring up Larsen Figure 3,
2 so Larsen is RX-57, and on page 2 of that at Figure 3.

3 So on your slide CDX-18C.82, you changed the
4 orientation of the figure, right?

5 A. Yes. I rotated it 90 degrees.

6 Q. You rotated it so you could show that it was
7 moving up and down?

8 A. So the -- in Figure 3, it will move side to side.

9 Q. Okay. Thank you.

10 A. And in rotation, it will move up and down. So
11 that's correct, yes.

12 MR. LANDMON: Thank you. I have no further
13 questions, Your Honor.

14 JUDGE MOORE: All right.

15 MR. GANGULY: Nothing further, Your Honor.

16 JUDGE MOORE: Okay. All right. With that, you
17 are released. Thank you for helping us with the record.

18 THE WITNESS: Thank you, Judge Moore.

19 (The witness stood down.)

20 JUDGE MOORE: Okay. So we have reached the end,
21 that is correct, no more witnesses. So what we'll do here,
22 first, I'll see if there are any housekeeping issues,
23 starting with Complainant.

24 MS. CHEN: None from Complainant, Your Honor.

25 MS. OKUN: None from Respondent, Your Honor.

1 JUDGE MOORE: All right. So as is my practice,
2 we only have a few because we had one witness, but if the
3 parties could meet and confer and actually send the e-mail
4 with the witness list, so that I can move it into the record
5 now, during the hearing, and we can close the record.

6 So we're going to take ten minutes. Do you think
7 that would be enough time?

8 MS. OKUN: That works.

9 JUDGE MOORE: All right. So we'll take a
10 ten-minute break. And I will have my attorney advisor come
11 out just to make sure that you don't need more time, but
12 after the ten minutes, we'll have some closing -- just some
13 closing statements and we'll adjourn.

14 (A recess was taken at 10:12 a.m., after which
15 the proceedings resumed at 10:54 a.m.)

16 JUDGE MOORE: Back on the record. Do we have an
17 e-mail to the reporter and to the Court?

18 MR. GANGULY: Yes, Your Honor. I believe we have
19 actually a couple of e-mails that went to the court
20 reporter. One was adding an exhibit that has been missed
21 before, so there was no dispute about that. So there are
22 two e-mails, correct, Kiichi? Two e-mails were sent, Your
23 Honor.

24 JUDGE MOORE: Okay, all right. So hearing no
25 objection to those, the exhibits listed in those e-mails are

1 admitted into the record.

2 (Exhibits, as submitted by counsel and reflected
3 in the attached index, were received into evidence.)

4 JUDGE MOORE: Do we have any objections or other
5 housekeeping?

6 MR. GANGULY: No, Your Honor.

7 MS. OKUN: No, Your Honor.

8 JUDGE MOORE: All right. So we have come to the
9 end.

10 I have a tradition, I guess it has been only
11 three years, but I would like to say, first of all, thank
12 you to our court reporter. I don't know if you guys know,
13 but we have the best court reporter in the country, I
14 guarantee you, and she is forced to write good things about
15 herself every time I have a trial, so enjoy that part of it.

16 My team, I have a new attorney advisor who is
17 working with me just on this case, but he's a huge help and
18 I appreciate it. And my program support specialist, also
19 the best here in the building, so I have to say I appreciate
20 that.

21 I understand we had a little hiccup here, but I
22 certainly understand that what we're doing here is trying to
23 zealously represent our client and get the best result for
24 our client. So I certainly understand that's the way things
25 happen.

1 But, in general, this has been a well-conducted
2 proceeding, very professional. You guys have worked
3 together for the most part and agreed on things and kept
4 things moving, so I think we have had a good trial. And
5 hopefully I and my team will be able to give you a good ID
6 that allows you, even if you don't get the result you want,
7 allows you to appeal and try to get the best result for your
8 client.

9 So with that, we are adjourned. Thank you. We
10 can close the record.

11 (Whereupon, at 10:57 a.m., the hearing
12 concluded.)

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C O N T E N T S

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WITNESS

DIRECT

CROSS

REDIRECT

RECROSS

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NAN MARIE JOKERST

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726

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768

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CONFIDENTIAL SESSIONS - NONE

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1 E X H I B I T S

2 EXHIBIT NO: RECEIVED

3 COMPLAINANTS

4 CX-0014C 726

5

6

7 EXHIBIT LISTS SUBMITTED FOR ADMISSION:

8 CX-0013C

9 CX-0106

10 CX-0109

11 CX-1351

12 RX-0006C

13 RX-0007C

14 RX-0008C

15 RX-0010C

16 RX-0011C

17 CX-0014C

18 RX-1374

19 CX-1345

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1 CERTIFICATE OF REPORTER

2 TITLE: Certain Photodynamic Therapy Systems, Components
3 Thereof

4 INVESTIGATION NO: 337-TA-1411

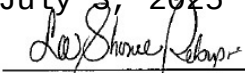
5 HEARING DATE: July 3, 2025

6 LOCATION: Courtroom B

7 NATURE OF HEARING: Evidentiary Hearing

8 I hereby certify that the foregoing/attached
9 transcript is a true, correct and complete record of the
above-referenced proceedings of the U.S. International
Trade Commission.

10 Date: July 3, 2025

11 SIGNED: 

12 Signature of the Contractor of the
13 Authorized Contractor's Representative
1150 Connecticut Avenue, N.W., Suite 305
Washington, D.C. 20036

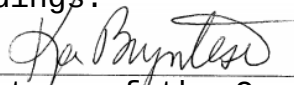
14 I hereby certify that I am not the Court Reporter
15 and that I have proofread the above-referenced transcript
of the proceedings of the U.S. International Trade
16 Commission, against the aforementioned Court Reporter's
notes and recordings, for accuracy in transcription in the
17 spelling, hyphenation, punctuation and speaker
identification and did not make any changes of a
18 substantive nature. The foregoing/attached transcript is a
true, correct and complete transcription of the
19 proceedings.

20 SIGNED: 

Signature of Proofreader

21

22 I hereby certify that I reported the above-referenced
proceedings of the U.S. International Trade Commission and
caused to be prepared from my tapes and notes of the
23 proceedings a true, correct and complete verbatim recording
of the proceedings.

24 SIGNED: 

25 Signature of the Court Reporter