

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AdvanCell Pty Ltd.
Petitioner

v.

Sciencons AS and ARTBIO, Inc.
Patent Owner

Post Grant Review No.: PGR2025-00029

**PETITIONER'S MOTION TO EXCLUDE
THE EXPERT DECLARATION OF CHARLES S. CONROY**

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Exhibit No.	Description
1001	U.S. Patent Number 12,125,603.
1002	Declaration of Saed Mirzadeh.
1003	Hassfjell, Sindre P. and Hoff, Per, “A Generator for Production of ^{212}Pb and ^{212}Bi ”, Appl. Radiat. Inst., vol. 45, no. 10, pp 1021-25 (1994) (“ Hassfjell-Hoff ”).
1004	WorldCat Index for Hassfjell-Hoff .
1005	International Publication Number WO 01/60417.
1006	File History of U.S. Patent No. 12,125,603.
1007	US Patent Application Publication No. 2018/0047474 A1 (“ O’Hara ”).
1008	Hassan, Ahmed and Alnaser, Ibrahim Abdullah, “A Review of Different Manufacturing Methods of Metallic Foams” ACS Omega 2024 9 (6), 6280-6295 DOI: 10.1021/acsomega.3c08613 (“ Hassan ”).
1009	Lefebvre, Louis-Philippe, Banhart, John, and Dunand, David C., “Porous Metals and Metallic Foams: Current Status and Recent Developments,” Advanced Engineering Materials, 10, September 9, pp. 775-787, 2008 https://doi.org/10.1002/adem.200800241 , (“ Lefebvre ”).
1010	U.S. Patent Number 3,087,807.
1011	“Radioisotopes,” International Atomic Energy Agency, https://www.iaea.org/topics/nuclear-science/isotopes/radioisotopes (last accessed February 11, 2025).
1012	File History of U.S. Patent Application Serial No. 18/680,605.
1013	File History of U.S. Patent Application Serial No. 18/680,372.
1014	Hassfjell, Sindre, “A ^{212}Pb generator based on a ^{228}Th source”, Appl. Radiat. Isot., vol. 55, no. 4, pp 433-439 (2001) (“ Hassfjell-2001 ”).
1015	U.S. Patent Number 6,592,843.
1016	“O-Ring Handbook,” Parker Hannifin Corporation, https://www.hdslippers.com/cgi-bin/pdf/Catalogues/05-O-Ring-Handbook_ODE5705-EN%20Luglio%202015.pdf (last accessed March 7, 2025).
1017	Declaration of Per Hoff.
1018	Excerpts of Merriam-Webster’s Collegiate Dictionary, 11 th ed. (2018).
1019	Declaration of Jennifer Librach Nall
1020	U.S. Patent Number 12,394,533.

Exhibit No.	Description
1021	Conroy Exhibit 3: Fraiser Kansteiner, “Nucleus RadioPharma Links Up With ARTBIO to Help Produce Prostate Cancer Candidate for Clinical Trials,” Fierce Pharma (May 7, 2024), https://www.fiercepharma.com/pharma/nuclear-medicine-cdmo-nucleus-links-artbio-help-produce-prostate-cancer-radiotherapy .
1022	Conroy Exhibit 4: ARTBIO, “ARTBIO and Nucleus RadioPharma Announce Collaboration to Manufacture GMP-Grade Therapeutic Products Containing Radioisotope Pb-212 to Support Emerging Clinical Trials” (May 7, 2024), https://artbio.com/artbio-nucleus-radiopharma-collaboration-manufacture-gmp-grade-therapeutic-products-radioisotope-pb-212-support-emerging-clinical-trials .
1023	Conroy Deposition Transcript.
1024	National Library of Medicine, “Study of Alpha Radioligand Therapy AB001 in Patients With Metastatic Castration Resistant Prostate Cancer (mCRPC) (ARTISAN)” (last updated Apr. 7, 2026), https://clinicaltrials.gov/study/NCT07214961
1025	ARTBIO, “ARTBIO Announces Dosing of Two Cohorts with AB001 in ARTISAN, a Phase 1 Alpha Radioligand Therapy Clinical Trial for Metastatic Castration Resistant Prostate Cancer” (Jan. 12, 2026), https://artbio.com/ARTBIO-Announces-dosing-of-Two-Cohorts-with-AB001
1026	ARTBIO, “ARTBIO and Nucleus RadioPharma Announce Collaboration to Manufacture GMP-Grade Therapeutic Products Containing Radioisotope Pb-212 to Support Emerging Clinical Trials” (May 7, 2024), https://artbio.com/artbio-nucleus-radiopharma-collaboration-manufacture-gmp-grade-therapeutic-products-radioisotope-pb-212-support-emerging-clinical-trials .
1027	U.S. Patent No. 12,406,776

I. INTRODUCTION

Petitioner moves to exclude the Declaration of Charles S. Conroy (EX2002) in the *Post Grant Review* of U.S. patent No. 12,125,603 (“the ’603 patent”). This exhibit should be excluded because Mr. Conroy is not a POSITA for radioisotope generator design and manufacture. Non-POSITA “expert” declarations are inadmissible because they fail to meet the requirements of Fed. R. Evid. 702.

II. MR. CONROY IS NOT A POSITA

Mr. Conroy’s declaration (EX2002) is irrelevant as a matter of law because he is not a POSITA. “To be qualified to offer expert testimony on issues from the vantage point of an ordinarily skilled artisan in a patent case, an expert must at a minimum possess ordinary skill in the art.” *Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1377 (Fed. Cir. 2022). “Without that skill, the witness’ opinions are neither relevant nor reliable.” *Id.* at 1377. “General experience in a related field may not suffice when experience and skill in specific product design are necessary to resolve patent issues.” *Extreme Networks, Inc. v. Enterasys Networks, Inc.*, 395 F. App’x 709, 715 (Fed. Cir. 2010).

The ’603 patent describes a highly technical method and system for producing ²¹²Pb. A POSITA opining on claim construction and validity must have **relevant** experience with radioisotope generators, not merely their marketing and use for pharmaceutical dispensing. Pet, 2-3; see *Billerud Aktiebolag (Publ) v.*

Westrock MWV, LLC, IPR2023-01206, Paper 60 at 10, 61 (PTAB Mar. 12, 2025) (excluding expert testimony because “although [the witness had] a Master’s of Science in chemical engineering, he lack[ed] any experience or specialization in paperboard manufacturing” as required by the Board’s definition of a POSITA); *BOE Tech. Group Co., Ltd. v. Optronix Sciences LLC*, IPR2024-01130, Paper 47 at 22-23 (PTAB Jan. 26, 2026) (excluding expert testimony because the witness’s “work did not involve the design of the LCD display itself . . . but rather involved a product meant to work with a pre-existing LCD display”); *Calco v. Ossur Ams., Inc.*, 2026 WL 939211, *4 (C.D. Cal. Apr. 2, 2026) (excluding expert who did not have development experience and holding that “[d]rafting patent applications . . . is not the same as developing the goods oneself”).

A. Mr. Conroy’s Degree and Work Experience Do Not Match POSITA Definition

As explained in the Petition (Paper 1) and in Petitioner’s Reply (Paper 23), a POSITA would have a bachelor’s degree in chemistry, chemical engineering, physics, nuclear chemistry, radiochemistry, or materials science, or a comparable field of study, plus approximately two to three years of professional experience with radioisotope generators, or other *relevant* industry experience. Pet., 2–3; Pet.’s Reply, 23–24. Additional graduate education could substitute for professional experience, and significant experience in the field could substitute for

formal education. *Id.* Mr. Conroy does not qualify as a POSITA because not only does he not have the necessary degree qualifications, but he also lacks relevant experience.

Mr. Conroy's undergraduate degree is a Bachelor of Science in Pharmacy. EX2002, ¶2; EX2003, 5. This degree does not fall within the fields of study enumerated in the definition of a POSITA, nor is it a comparable field of study. His other degree, an MBA, is even further removed from the design of radioisotope generators and cannot qualify Mr. Conroy as a POSITA. At deposition, Mr. Conroy conceded that he did not take any coursework on radioisotope generators, never performed scientific research in the radiopharmaceutical field, and never designed a radiopharmaceutical generator. EX1023, 17:19–22, 19:3–9. At bottom, it was Patent Owner's burden to show that Mr. Conroy is a POSITA, but Patent Owner provided no explanation for why a degree in Pharmacy is comparable. *See Mathis v. Exxon Corp.*, 302 F.3d 448, 459–60 (5th Cir. 2002) ("The party offering the expert must prove by a preponderance of the evidence that the proffered testimony satisfies the rule 702 test.").

B. Mr. Conroy's Experience is Limited to Marketing, Sales, Management and Use for Dispensing—Not Developing

Mr. Conroy's work experience in marketing radioisotope generators does not substitute for the technical experience and degree required for a POSITA here.

See Pet.'s Reply, 23. Mr. Conroy's professional experience includes marketing and business administration for radioisotope generator companies. EX2002, ¶2, 4.

There is no showing that this is *relevant* work experience or that marketing and business administration would substitute for the missing degree.

Mr. Conroy conceded that he did not design or build even one radioisotope generator. EX1023, 22:16–23, 34:2–8, 36–37:24–1, 39:20–21, 41:5, 41:14, 42:2–3, 42:21–24, 46:17, 47:4, 47:23, 48:8, 49:5. And even his marketing experience was limited to liquid radioisotope generators, not emanation generators, which are at issue in this proceeding. EX1023, 42:13–18; see EX1001, claim 1. Thus, Mr. Conroy's professional experience does not qualify him as a POSITA nor substitute for his lack of relevant degree.

Grantley Patent Holdings, Ltd. v. Clear Channel Communications, Inc., 2008 WL 7701186 (E.D. Tex. Apr. 4, 2008) is instructive. In that case, the district court excluded the opinions of an “expert” with an MBA and forty years of marketing experience in the radio industry. *Id.* at * 3. The court reasoned that marketing simply could not substitute for developing the patented technology at issue. Mr. Conroy's experience mirrors exactly that of the “expert” in *Grantley*. His professional experience is limited to marketing; he has never developed any generators, let alone an emanation-based generator. Although Mr. Conroy has

several years of experience working in the industry, his marketing experience is insufficient to confer POSITA status.

His experience as a pharmacist who used radioisotope generators for dispensing radioisotope pharmaceuticals similarly does not qualify him as a POSITA in this case. One does need to understand how a radioisotope generator works or how to build a radioisotope generator in order to use one. Someone who uses a coffee machine does not qualify as an expert in the development of coffee machines. Similarly, someone who drives a car does not qualify as a POSITA in the automotive field. This is true even if that person has a driver's license. Moreover, although it is not dispositive of Mr. Conroy's status as a POSITA, it is noteworthy in view of the lack of relevant education and work experience discussed above that Mr. Conroy has never operated an emanation generator, which is the type of radioisotope generator at issue here. EX1023, 86:22-24.

For all of the reasons discussed above, Mr. Conroy is not a POSITA. Thus, his declaration should be excluded. *BOE Tech. Group Co.*, IPR2024-01130, Paper 47 at 23.

III. MR. CONROY'S FINANCIAL STAKE IS DISQUALIFYING

If it is not excluded, Mr. Conroy's declaration should be accorded no weight due to his financial stake in upholding the patentability of the patent. The PTAB considers an expert's status as an interested witness when determining the

probative weight of an expert's testimony. *Parrot S.A. v. QFO Labs, Inc.*, IPR2018-01690, Paper 40 at 63–64 (PTAB Feb. 20, 2020). An expert witness is considered interested if they have a financial stake in the outcome of the case. *Id.*; *Ethicon, Inc. v. U.S. Surgical Corp.*, 135 F.3d 1456, 1465 (Fed. Cir. 1998) (“A witness's pecuniary interest in the outcome of the case goes to the probative weight of the testimony.”).

Mr. Conroy has a significant financial interest in Nucleus RadioPharma, whose partnership with the exclusive licensee of the '603 patent, ARTBIO, creates a vested interest in preserving the patentability of the '603 patent. While Mr. Conroy was CEO of Nucleus RadioPharma, it obtained its first commercial partnership with ARTBIO. EX1021; EX1022; EX1023, 59:5–11. Their partnership allows Nucleus RadioPharma to “manufacture ARTBIO's ^{212}Pb -radiolabeled therapies for its planned Phase I and II clinical trials of its lead program in prostate cancer, AB001, using ARTBIO's proprietary AlphaDirectTM ^{212}Pb isolation technology.” EX1026. The identity of ARTBIO's AlphaDirectTM technology mirrors the '603 patent extremely closely. The '603 patent discloses a diffusion generator that produces ^{212}Pb in high purity without the need for complex processing, with purity greater than 99.8%, in a compact form. EX1001 at Abstract, 5:37–44, 11:3–6, 19:39–43. ARTBIO's proprietary technology is a product of the '603 patent family, and therefore Mr. Conroy has a vested financial

interest in the validity of the patent. Hence, the Board should award his declaration no weight.

IV. CONCLUSION

In accordance with the Board's scheduling order, Paper 12, and 37 C.F.R. § 42.64(c), Petitioner requests that the Board exclude the Declaration of Mr. Charles S. Conroy on behalf of Patent Owner (EX2002) as Mr. Conroy is not a person of ordinary skill in the art as it relates to this case. If not excluded, Petitioner requests that the Board not give the Declaration any weight.

Dated: June 30, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies pursuant to 37 C.F.R. §§ 42.6(e) and 42.105 that on June 30, 2026, a true and correct copy of the MOTION was served was served by electronic mail to the attorneys of record, at the following addresses:

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