UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY,
Plaintiff,
vs. No. C-05-04158-MHP
ROCHE MOLECULAR SYSTEMS, INC., et al.,
Defendants.
AND RELATED COUNTERCLAIM.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
VIDEOTAPED DEPOSITION OF JOHN J. SNINSKY, Ph.D.
Redwood Shores, California
Thursday, July 27, 2006

Reported by:
GINA GLANTZ
CSR No. 9795, RPR, RMR
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Defendants.
AND RELATED COUNTERCLAIM.

Videotaped Deposition of JOHN J. SNINSKY, Ph.D., taken on behalf of Plaintiff and Counterclaim Defendants, at 555 Twin Dolphin Drive, Suite 560, Redwood Shores, California, beginning at 9:37 a.m. and ending at 6:01 p.m., on Thursday, July 27, 2006, before GINA GLANTZ, Certified Shorthand Reporter No. 9795.

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Q And did you work on particular projects during your postdoc?
A I worked with Dr. Stanley N. Cohen, and worked on cloning and molecular virology.
Q Dr. Cohen is a Nobel Laureate?
A No, he's not, unfortunately.
Q Dr. Cohen is a pioneer in molecular biology?
A He is.
Q And was he involved in the discovery of restriction enzymes?
A No, he was involved in the very first cloning experiments with Dr. Herbert Boyer.
Q And when you say "cloning experiments," what do you mean by that?
A The stitching together and propagation of DNA from one organism into another.
Q And does that term "cloning experiments" encompass making plasmid DNAs?
A Yes.
Q Does it encompass inserting DNA sequences from one organism into a plasmid vector DNA sequence?
A Yes, it does.
Q And did you do that, that kind of work, in the 19 -- during your postdoctoral fellowship between 1976 and 1980?

Cetus?
A At that time, I only recall talking to Dr. Cohen.
Q And you recall being a consultant for Cetus Palo Alto?
A I'm not sure what capacity I was associated with Cetus Palo Alto; it was a very brief period. But as soon as I took my academic position, I didn't have a relationship with Cetus Palo Alto.
Q When you say you were a consultant or acted in some other capacity, were you giving information to Cetus?
MR. BOOZELL: Objection. Vague and ambiguous, misstates his testimony.
THE WITNESS: I don't recall the capacity in which I was with Cetus Palo Alto. I provided them with general information about cloning and molecular virology.
BY MS. RHYU:
Q Do you recall if they provided you any information --
MR. BOOZELL: Objection. Vague, ambiguous.
BY MS. RHYU:
Q -- during that time frame?
A Nothing that I recall.

A Yes, I did.
Q Was cloning into plasmid vectors a technique that was widely known in 1980?
MR. BOOZELL: Objection. Vague and ambiguous, calls for speculation, lacks foundation.
You can answer.
THE WITNESS: When I was with Dr. Cohen, it was relatively shortly after it was first described in the literature, so it was becoming well known.
BY MS. RHYU:
Q Did you work at Cetus while you were a postdoctoral fellow?
A There was a subsidiary of Cetus called Cetus Palo Alto that I -- in some capacity, consultant, advisor, before I accepted my position at the Albert Einstein College of Medicine, but I can't now recall exactly what that position was.
Q Do you remember your first interaction with the subsidiary of Cetus, Cetus Palo Alto?
A It was with Dr. Cohen.
Q What else do you remember about that first interaction?
A I've described to you everything I recall about it.
Q Do you remember if you met with someone from

Q Did you meet anyone from Cetus in that time frame, in the 1976 through 1980 time frame, prior to becoming assistant professor at the Albert Einstein College of Medicine?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I recall being introduced to Ron Cape and Pete Farley and David Gelfand.
BY MS. RHYU:
Q Were they Cetus employees at that time?
A They were.
Q So prior to going to Cetus, you were an assistant professor at the Albert Einstein College of Medicine; correct?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: That's correct.
BY MS. RHYU:
Q And what was your research area as assistant professor at Albert Einstein?
A The study of hepatitis B.
Q And what did your study of hepatitis B entail?
A It included the analysis of the genes and their involvement in the pathogenesis of the virus, and its role in the development of liver cancer.
Q Did that work involve molecular cloning?
A Yes, it did.

Q Did it involve the expression of RNA from transcription vectors?
A Yes, it did.
Q Can you explain that to me?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: What would you like me to explain?
BY MS. RHYU:
Q When -- when you say it -- your work with hepatitis B involved the expression of RNA from transcription vectors, can you just explain to me what -- what RNA was expressed, from what transcription vectors?
MR. BOOZELL: Objection. Vague and ambiguous, complex, calls for a narrative.
Go ahead.
THE WITNESS: In brief, we tried to express the hepatitis B genes or proteins in bacteria, Escherichia coli.
BY MS. RHYU:
Q And did you do that by cloning DNA sequences from the hepatitis B virus into a plasmid vector?
A Yes, that's correct.
Q And was the RNA transcript expressed from a promoter that was in the plasmid vector?

A That's correct.
Q And do you recall what promoters you used?
A There were a combination of promoters that were used, that included the chloramphenicol and tetracycline promoters, as well as the promoter for the lactose gene.
Q Did you ever use the T7 promoter at that stage, prior to 1984 -- prior to 1985, I should say?
A No.
Q How about the SP6 promoter?
A No.
Q Were you successful in expressing hepatitis RNA from a transcription vector?
A Yes, I was.
Q Was your lab the first lab to express foreign RNA in a transcription -- from a transcription vector?
A No.
Q Was the technique of expressing RNA sequence from a transcription vector a widely known technique as of the mid-1980s?
MR. BOOZELL: Vague and ambiguous, calls for speculation, lacks foundation.
THE WITNESS: I'm not sure I know what you mean by "widely known." It was familiar in the scientific community.
BY MS. RHYU:

Q Meaning that scientists were generally using those techniques?
MR. BOOZELL: Same objections.
THE WITNESS: Those techniques were really immature at that time, so not all genes could be expressed.
BY MS. RHYU:
Q But a variety of genes had been expressed from plasmid expression vectors?
MR. BOOZELL: Same objections.
THE WITNESS: Yes.
BY MS. RHYU:
Q Their RNA transcripts were expressed from plasmid vectors?
A Yes.
Q And that was in the mid-1980s?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: The late '70s and early '80s.
BY MS. RHYU:
Q So your CV states that you started working at Cetus Corporation in 1984. What were the circumstances of your transition from Albert Einstein College of Medicine to Cetus Corporation?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I'm not sure I know what you mean

by the circumstances around.
BY MS. RHYU:
Q Why did you go to Cetus?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: There were a combination of reasons, but the prime one was that it seemed like a wise decision for my career development.
BY MS. RHYU:
Q Did Cetus recruit you?
A They offered me a job.
Q Were you aware of the PCR technique when you decided to join Cetus?
A No.
Q And I see, while you were at Cetus, you had several different -- you had two different job titles; is that correct?
A Yes.
Q Were there other job titles that you had that are not on this CV, while you were at Cetus?
A There were multiple titles. As indicated in the resume, senior scientist, director of the diagnostics program, senior director of the diagnostics program.
Q I see. But other than the titles reflected on your CV, did you have any other positions while you were

at Cetus?
A Not that I can recall.
Q So I'm interested in the period from 1988 to 1991, when you were senior director of the diagnostics program, PCR division, and director of the department of infectious diseases at Cetus Corporation, so I'd like to ask you some questions about that.
A Sure.
Q What was the PCR division?
A It was a subset, a group of individuals who had, as their prime area of interest, research on and commercialization of PCR-based activities.
Q And who were the individuals in the PCR division at that time, that you can recall?
A I couldn't recollect all of them, but I remember there being approximately 70 people in the organization.
Q Of those 70 people, how many were scientists?
MR. BOOZELL: Objection. Vague and ambiguous.
BY MS. RHYU:
Q This is just in the PCR division.
MR. BOOZELL: Same objections.
THE WITNESS: I'm not sure I know what you're asking.
BY MS. RHYU:

Q I'm just trying to get a sense of who were the scientists that you were working with in the PCR division?
MR. BOOZELL: Vague and ambiguous.
THE WITNESS: I remember everyone being trained in either medicine or science.
BY MS. RHYU:
Q And you recall there were about 70 such people?
A That's correct.
Q As senior director of the diagnostics program, what were your job responsibilities?
A I oversaw the relationship between Eastman Kodak and Cetus, as it entailed both immunodiagnostics and nucleic acid diagnostics.
Q Did you have any other responsibilities as senior director of the diagnostics program?
A I also oversaw PCR technology development.
Q And what does that mean?
A At that time, there was significant effort to continue to optimize the procedure, investigate automation, and to look into alternative enzymes for the polymerase chain reaction.
Q And you said you oversaw the Kodak-Cetus relationship. Who at Cetus was involved in the collaboration between Kodak and Cetus? I'm asking

scientists.
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: Tom White was the primary person.
BY MS. RHYU:
Q Was there anyone else supporting Tom White?
MR. BOOZELL: Same objections.
THE WITNESS: The Cetus-Kodak relationship include -- included a large number of scientists in both immunodiagnostics and nucleic acid diagnostics, and I can't remember all of the people involved.
BY MS. RHYU:
Q What was Tom White's role?
A He was vice president for research, and I, either indirectly, in a dotted-line relationship, or directly, reported to him concerning those activities.
Q Who reported to you concerning that Kodak-Cetus collaboration?
A Among the key people were Drs. Henry Erlich, David Gelfand and Shirley Kwok.
Q Can you think of anyone else?
A Shelley Williams was a project coordinator.
Q So you oversaw the Kodak-Cetus collaboration, and you oversaw PCR development. Did you have any other job responsibilities as senior director of the diagnostics program between 1988 and 1991?

MR. BOOZELL: Objection. Vague and ambiguous, misstates his testimony.
THE WITNESS: That encompasses the responsibilities as I recall them.
BY MS. RHYU:
Q Did you have an office at Cetus?
A Yes, I did.
Q And where was that located?
A It was in multiple places. It started off in The Horton Street Building, but most of the time it was on the -- in the so-called main or Shell Building.
Q Did you say "Shell Building"?
A Yes.
Q S-h-e-l-l?
A That's correct.
Q Is that the building that housed Dr. Eric Groves' lab?
A That's correct.
Q And between 1988 and 1991, did you have an office in the Shell Building?
A Yes.
Q And where in the building was your office?
A The third floor.
Q Did you have a lab in the Shell Building between 1988 and 1991?

project with Dr. Bill Robinson. Bill worked in the division of, and down the hall from, Tom Merigan.
Q Did Dr. Merigan supervise any of your work while you were at Stanford?
A No.
Q Did you interact with him while he was a consultant at Cetus?
A Yes.
Q And in what context did you interact with him while he was a consultant at Cetus?
A Whenever consultants were at Cetus, at meetings, we would have an opportunity to talk about our mutual interests, such as viruses.
Q Do you have any specific recollection of interactions you had with Dr. Merigan at Cetus?
A Nothing specific, but it would have entailed primarily cytomegalovirus, CMV.
Q Did Cetus have ongoing research related to CMV?
A I'm sorry, are we talking about the period of time when I was a postdoctoral fellow at Stanford or --
Q Cetus.
A -- at Cetus? I don't remember us working on CMV.
Q But you did remember talking with Dr. Merigan about CMV at Cetus?

A At Stanford and at Cetus. Tom was interested in CMV, and, frequently, consultants, like Tom, inquire whether or not we should be developing or doing research in those areas.
Q Do you recall any other suggestions that Dr. Merigan made at Cetus?
A No.
Q Do you have any understanding as to what specific projects Tom Merigan was consulting on at Cetus?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: My recollection is the treatment of viral diseases.
BY MS. RHYU:
Q And you said you didn't remember anything specific about Dr. Merigan's -- about interactions with Dr. Merigan at Cetus, so I'd just like to know, what is the basis of your memory that he consulted regarding the treatment of viral diseases?
MR. BOOZELL: Objection. Vague and ambiguous, misstates his testimony, it's argumentative.
THE WITNESS: I remember telling Tom how important PCR was going to be for viral detection in general and HIV specifically.
BY MS. RHYU:

Q Was that at Cetus?
A Yes.
MR. BOOZELL: Objection. Vague.
BY MS. RHYU:
Q And do you remember when you told him that?
A I don't remember a specific date.
Q Do you remember if anyone else heard you?
A I can't remember whether it was in a phone conversation without someone or whether or not it was in a group of people.
Q Do you remember anything else about that conversation?
A Only what I just indicated.
Q Do you remember having any specific discussions with Dr. Merigan about HIV?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: Other than the one I just mentioned?
BY MS. RHYU:
Q Yes. Well -- yes.
MR. BOOZELL: Same objections.
THE WITNESS: In the context of meetings that included consultants, I would have had discussions that encompassed HIV, so -- but I don't remember anything specific.

BY MS. RHYU:
Q And would those discussions have been relating to the work that you or the people that you supervised were conducting related to HIV?
A Yes, that's correct.
Q So outside -- well, first let's talk about the meetings that you just mentioned. What were these meetings that included consultants?
A Sometimes consultants visited Cetus. Other examples of meetings were the Cetus scientific meetings, which were held about once every 18 months.
Q Was it your understanding that the consultants consulted on specific projects at Cetus?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I never saw their agreement, so I couldn't say.
BY MS. RHYU:
Q But just from your interaction with Dr. Merigan, did you have any understanding as to whether he was consulting as to specific projects?
MR. BOOZELL: Same objections.
THE WITNESS: There's nothing that I recall about those discussions with Tom that would have indicated one way or the other.
BY MS. RHYU:

BY MS. RHYU:
Q I'm asking generally, did you design any experiments for Dr. Merigan to carry out?
MR. BOOZELL: Same objections.
THE WITNESS: It's a very, very general -- very general question. I certainly remember indicating, saying to Tom that PCR would be a powerful tool with HIV and viruses in general. I remember relaying, generally, information about how to carry out PCR in the best possible way, but I don't have a specific recollection of a specifically designed experiment.
BY MS. RHYU:
Q How about David Schwartz --
MR. BOOZELL: Same objections.
BY MS. RHYU:
Q -- did you design any experiments for David Schwartz?
MR. BOOZELL: Sorry. Same objections.
THE WITNESS: In the context of materials transfer agreement, we trained -- trained people in PCR. But I wasn't working in the laboratory myself, so I wouldn't have specifically designed an experiment myself in terms of, you know, a bench-type experiment.
BY MS. RHYU:
Q Do you recall training Dr. Schwartz to carry

out PCR at Cetus?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I personally wouldn't have trained anyone except for my brother, but the people in the organization would have trained people.
BY MS. RHYU:
Q Do you recall that Dr. Schwartz came to Cetus to be trained to use PCR?
MR. BOOZELL: Same objections.
THE WITNESS: I have a general recollection of that.
BY MS. RHYU:
Q Do you know who at Cetus would have trained him?
A It's likely that it would have been Gail Rodgers and Roberta Mattich and people that worked in their organization.
Q But you didn't participate in actually showing Dr. Schwartz how to conduct PCR?
A No. Unfortunately, I wasn't working at the bench at the time.
Q What else do you remember about the MTAs listed under "Stanford University" on RMS 00062 in Exhibit 535?
MR. BOOZELL: Objection. Vague and ambiguous, calls for a narrative, lacks foundation.

THE WITNESS: I just have a general recollection.
BY MS. RHYU:
Q Have you told me everything that is your recollection?
A To the best of my knowledge.
Q After the initial transfer of materials, do you recall -- let me strike that.
So is it your testimony today that you generally recall transferring materials to Dr. Merigan around the February 1989 time frame?
MR. BOOZELL: Objection. Vague and ambiguous, misstates his testimony.
THE WITNESS: I generally recall providing materials. I don't specifically remember when that was.
BY MS. RHYU:
Q Do you recall whether you provided materials to Tom Merigan on any other occasions?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: My recollection is there would have been multiple occasions.
BY MS. RHYU:
Q You have a specific recollection that there were multiple occasions that you transferred materials to Tom Merigan?

A I didn't say that, I said I had a general recollection that we would have done it multiple times.
Q And why is that?
A Because we trained them in how to do PCR and HIV.
Q What materials are you referring to?
A Information, reagents, oligonucleotides, enzymes.
Q So are you testifying that you would have given reagents or that you remember giving reagents?
MR. BOOZELL: Objection. Vague and ambiguous, compound, asked and answered.
THE WITNESS: I'm saying I have a general recollection of providing information and reagents to Tom Merigan and the people in his group.
BY MS. RHYU:
Q Do you remember handing them over?
MR. BOOZELL: Vague and ambiguous.
THE WITNESS: I have a general recollection, but I don't have a specific recollection.
BY MS. RHYU:
Q So you don't remember handing reagents over to any individual?
MR. BOOZELL: Vague and ambiguous, asked and answered, argumentative.

THE WITNESS: Yeah, I don't have a specific recollection. It's unlikely that I would have relayed those reagents. Somebody in my organization would have relayed them.
BY MS. RHYU:
Q Is there any documentation of any of the transfers that you remember?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I don't know.
BY MS. RHYU:
Q Do you remember writing anything up, stating that you were transferring reagents to Dr. Merigan?
A We were helping so many people in so many ways, I don't have a specific recollection.
Q You don't have a specific recollection of writing anything up; is that what you're saying?
MR. BOOZELL: Vague and ambiguous, misstates his testimony, asked and answered.
THE WITNESS: As you can tell from this document, we helped a large number of people. I simply don't have a specific recollection.
BY MS. RHYU:
Q Are you aware of the existence of any documents today that document the transfer of any reagents to Dr. Merigan under the MTA?

MR. BOOZELL: Objection. Vague and ambiguous and calls for a legal conclusion.
THE WITNESS: I don't have any documents, and I haven't looked at any documents from that time period. I don't know.
BY MS. RHYU:
Q So you're referring to having helped lots of different researchers to learn the PCR technique?
A Yes.
Q Was Cetus trying to disseminate the PCR techniques to the greater research population?
MR. BOOZELL: Objection. Vague and ambiguous, calls for speculation and foundation as to Cetus's intent.
THE WITNESS: Yeah, I'm not quite sure I know what you mean by that question.
BY MS. RHYU:
Q Is it your understanding that Cetus wanted scientists to learn to use PCR techniques?
MR. BOOZELL: Same objections.
THE WITNESS: Cetus was a commercial entity that was interested in capturing value from the things that they were investing in, and among the ways to do that was to commercialize reagents and establish materials transfer agreements, and that encompasses what

Cetus was interested in.
BY MS. RHYU:
Q Cetus had patented PCR techniques?
A That's correct.
Q And Cetus had patented PCR reagents?
A That's correct.
Q And Cetus -- it was in Cetus's interest -- it's your understanding that Cetus wanted scientists to learn and use these PCR techniques and reagents?
MR. BOOZELL: Objection. Vague and ambiguous, compound, calls for speculation, lacks foundation.
THE WITNESS: Your question is more complex than it appears on the surface, because Cetus is a commercial entity. So the -- it's not clear business -- clear -- a productive business model would be to simply disseminate information. So they were responsible for capturing value out of the things that they discovered, and the way they did that was to work with individuals to create value, or to sell reagents that would bring value to the company. So saying that Cetus was interested in disseminating information is -- is not a very good way to think about it. They were a commercial entity.
BY MS. RHYU:
Q In the context of MTAs, what do you mean by

capturing value out of the things Cetus discovered?
MR. BOOZELL: Objection. Vague and ambiguous, calls for speculation, lacks foundation, calls for a legal conclusion.
THE WITNESS: I think the -- a pointed answer to that question is probably best answered by a lawyer rather than a scientist.
BY MS. RHYU:
Q You have no understanding of what -- what you meant by capturing value?
MR. BOOZELL: Same objections, argumentative.
THE WITNESS: I mean, I obviously have a scientist -- scientist's perception of what that means, but not a legal one.
BY MS. RHYU:
Q Okay. What's your scientist's perception of what that means, capturing value out of Cetus's inventions in the context of an MTA?
MR. BOOZELL: Same objections.
THE WITNESS: In the context of materials transfer agreements, there are terms that are associated with ownership of intellectual property, so it is in that context that I made that statement.
BY MS. RHYU:
Q Can you elaborate on what you mean by that?

MR. BOOZELL: Same objections.
THE WITNESS: I can't make it any clearer than that from a scientist's perspective.
MS. RHYU: I'm ready for a break, are you?
MR. BOOZELL: Yes.
THE VIDEOGRAPHER: The time is 12:17. We're going off the record.
(Lunch recess.)
(Deposition Exhibit 536 marked.)
THE VIDEOGRAPHER: Good afternoon. The time is 1:07 p.m. We are back on the record.
BY MS. RHYU:
Q Dr. Sninsky, I've given you a document labeled Exhibit 536. It, for the record, bears the production numbers RMS 0064511 through 0064515. It appears to be a -- an article from the Journal of Virology, the first author is Shirley Kwok, and the title is "Identification of Human Immunodeficiency Virus Sequences by Using In Vitro Enzymatic Amplification and Oligomer Cleavage Detection." Do you recognize this document?
A Yes, I do.
Q Is this the first article that you published that was related to HIV?
A I believe it is.
Q And this involved the identification of HIV

sequences?
A That's correct.
Q If you could turn to 64512, and Table 1 that's on that page. Do you understand Table 1 to list a series of primers and probes?
A That's correct.
Q And do you see where it designates SK19 and has a sequence that follows the designation SK19?
A Yes.
Q And is that SK19 the same as the SK19 we discussed earlier today?
A Yes.
Q That's a probe that is complimentary to the gag DNA sequence of HIV?
A Yes.
Q So this article published the sequence of SK19?
A Yes.
Q And by publishing this, the SK19 sequence was no longer confidential to Cetus; correct?
MR. BOOZELL: Objection. Vague and ambiguous, calls for a legal conclusion, lacks foundation and calls for speculation.
THE WITNESS: Sometimes there's a misunderstanding that when something is disclosed, that it's in the public domain. This indicates that it was

disclosed, but it doesn't indicate anything about ownership.
BY MS. RHYU:
Q Right. I'm not asking about whether it was proprietary. I'm asking whether it was confidential.
MR. BOOZELL: Same objections.
BY MS. RHYU:
Q Was the SK19 sequence confidential as of 1987?
MR. BOOZELL: Same objections.
THE WITNESS: SK19 is disclosed in this document.
BY MS. RHYU:
Q The sequence of SK19 is disclosed in this document?
A Yes, that's correct.
Q So a person reading this document would be able to make the SK19 primer -- I'm sorry, the SK19 probe, if they're able to synthesize an oligonucleotide?
MR. BOOZELL: Objection. Vague and ambiguous and calls for speculation.
THE WITNESS: Not necessarily. The oligonucleotides, just like any other reagent, can be produced at different levels of purity in performance, so that would be one thing that one would have to consider.

BY MS. RHYU:
Q So a manufacturing -- or purity considerations aside, a person who is skilled in making oligonucleotides would be able to synthesize an oligonucleotide having the sequence of SK19 after the disclosure in Exhibit 536?
MR. BOOZELL: Vague and ambiguous, calls for speculation, lacks foundation.
THE WITNESS: I think it's -- that's a critical aside. I mean, it all depends on how that oligonucleotide would perform, so just because you have the sequence, doesn't necessarily mean you would have an oligonucleotide that performed in the same way.
BY MS. RHYU:
Q One could make the oligonucleotide, though --
MR. BOOZELL: Same objections.
BY MS. RHYU:
Q -- knowing the sequence?
MR. BOOZELL: Same objections.
THE WITNESS: Knowing the sequence, you could make the oligonucleotide.
BY MS. RHYU:
Q Exhibit 536 does not involve the quantitation of HIV nucleic acid in patient samples; correct?
A I'd have to reread the document. Would you

in the "Methods" section under "Subjects."
Q Okay. We've talked about 539. You want to move on to 540?
A The "Materials and Methods" section of document 540 doesn't mention antiviral therapy in the context of the clinical specimens.
Q 541?
A The "Methods" section of document 541 that's listed as "Study Participants" doesn't mention whether antiviral therapy was used.
Q And how about 542?
A There's a sentence in document 542, under "Materials and Methods," that says, "At the time of venipuncture, none of the patients were known to be taking drugs that had anti-HIV activity."
Q Thank you, Dr. Sninsky.
Prior to 1991, you and your colleagues at Cetus were looking at the level of HIV nucleic acids in PBMCs; right?
MR. BOOZELL: Objection. Vague and ambiguous, calls for speculation, lacks foundation.
THE WITNESS: My recollection, we were looking at HIV nucleic acid.
BY MS. RHYU:
Q In PBMCs?

MR. BOOZELL: Same objections.
THE WITNESS: My recollection was we did some whole blood experiments as well, so I don't remember the specifics in terms of pre-'91, post-'91. We clearly, as one of these papers indicates, were doing RNA experiments as well as DNA experiments, and determining the amounts of RNA that were present.
BY MS. RHYU:
Q But those were all in PBMCs, right, as far as the published articles that we looked at?
MR. BOOZELL: Same objections.
THE WITNESS: As far as these publications, that's correct.
BY MS. RHYU:
Q Prior to 1991, were you doing any work specifically with quantitation of HIV RNA in plasma or serum samples?
MR. BOOZELL: Objection. Vague and ambiguous as to "you."
THE WITNESS: I certainly personally didn't do the experiments, because I oversaw the laboratory. There were other people who were doing -- doing the studies.
BY MS. RHYU:
Q I understand. So let's change the question to

ask: Prior to 1991, were you aware of anyone at Cetus doing work specifically with quantitation of HIV RNA in patient samples that were in plasma or serum?
A I don't remember whether we were or we weren't. But it's really not --
Q So sitting here today --
A -- fundament- -- really not fundamentally different, because the virus blebs out of the cell, so you can think of a virus particle as being a small cell.
Q Sitting here today, you don't remember whether you were or were not looking at patient samples from plasma or serum?
A That's correct.
Q And did you just say that you see no distinction between looking at samples from plasma versus PBMCs?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: What I said is when the virus leaves the cell, it brings along with it the cell membrane that is characteristic of the cell.
BY MS. RHYU:
Q Why were your experiments, the ones described in the articles we've just reviewed, why were those focused on samples taken from PBMCs as opposed to plasma or serum?

MR. BOOZELL: Objection. Vague and ambiguous, compound.
THE WITNESS: Retroviruses are known, as we said earlier, to go through a proviral intermediate, and the expectation was that, looking at both DNA and RNA was going to be important, and because of the -- the -- the greater stability of DNA, we chose to focus our initial experiments on DNA, as described in these publications.
BY MS. RHYU:
Q And is that the reason you also chose to focus on PBMCs as opposed to plasma?
A The comparisons that were being done were primarily through, as indicated by one of these publications, reverse transcriptase activity, the ability to culture HIV cells, and those culturing techniques were cultured from peripheral blood mononuclear cells, so it was thought to be advantageous to determine the amounts of RNA in the same materials that culturing was being done from.
Q And it was difficult to culture from plasma or serum?
MR. BOOZELL: Objection. Vague and ambiguous, and misstates his testimony.
THE WITNESS: HIV was difficult to culture

until people found the appropriate conditions in cells to do that with. Eventually people were able to culture HIV routinely.
BY MS. RHYU:
Q I just want to make sure we're saying the same -- we're understanding the same thing when you say "culture." What do you mean when you say culturing from cells or from plasma?
A Initially it wasn't possible to culture the virus, as other viruses are -- other viruses were cultured. It was then determined how one can do that, in terms of activation, et cetera.
Q And when was that determined?
A I don't remember the specifics.
Q Sometime late in the 1980s?
A Yes. Mid end, mid-1980s. The -- and you could both culture the virus from infected cells, and then, eventually, culture the virus from free virus in the sera or the plasma, so the initial experiments involved activating infected cells. So we were interested in -- my recollection is we were interested in looking at the same materials that people were using to start from.
Q Why did you need to culture the virus? Why couldn't you just obtain the nucleic acid from the plasma?

MR. BOOZELL: Objection. Vague and ambiguous, compound, misstates his testimony.
THE WITNESS: You could, but the -- we just decided to start with the cells.
BY MS. RHYU:
Q And aside from what you just explained, were there any other advantages to starting with the cells?
MR. BOOZELL: Objection. Vague and ambiguous, misstates his testimony.
THE WITNESS: DNA doesn't require a reverse transcription step to convert it to DNA before amplification. So just a logical place to start.
BY MS. RHYU:
Q And aside from the circumstances that you described, were there any other anticipated pitfalls in working with plasma or serum?
MR. BOOZELL: Same objections.
THE WITNESS: I don't remember any of the specifics. I just remember a feeling of urgency to accomplish the detection of HIV to provide valuable diagnostics for the epidemic. It was right -- I was in New York when the epidemic struck. I was in San Francisco when the epidemic was moving through the city like wildfire. So I was feeling, quite urgently, the need to apply these new tools to detection of this

deadly virus.
BY MS. RHYU:
Q And in that urgency, you thought the best way to develop an assay for detecting HIV would be to look at DNA and PBMCs?
A From these papers that you've just given me, between 538 and 542, it's a clear indication of both DNA and RNA.
Q But you were looking to develop an assay for detecting HIV in PBMCs as opposed to plasma or serum?
MR. BOOZELL: Objection. Vague and ambiguous, asked and answered.
THE WITNESS: The important thing is there was DNA or RNA. The source wasn't as important, the reservoirs of the virus placed themselves in the brain, placed themselves in the lymph nodes. So I don't think the source was as important as simply was DNA or RNA.
BY MS. RHYU:
Q But you focused first on PBMCs?
MR. BOOZELL: Same objections.
THE WITNESS: As these paper indicated, the first publications described peripheral blood mononuclear cells.
BY MS. RHYU:
Q Prior to 1991, you were not using RNA

quantitation to monitor the efficacy of any HIV treatment; correct?
A I don't remember.
Q You don't remember one way or another?
A No.
Q Prior to the end of 1991, do you know of any Cetus scientist who was monitoring the efficacy of an HIV treatment by RNA quantitation?
A I --
MR. BOOZELL: Objection. Vague and ambiguous, calls for a legal conclusion, calls for speculation, lacks foundation.
THE WITNESS: I can't recall now, in 2006, what was done before 1991 and what was done after 1991.
BY MS. RHYU:
Q I'm handing you what I'm marking as Exhibit 543, bearing production numbers RMS 01149 through 01155, a publication from Analytical Biochemistry in 1990 entitled "Quantitation of HIV-1 Proviral DNA Relative to Cellular DNA By the Polymerase Chain Reaction."
(Deposition Exhibit 543 marked.)
BY MS. RHYU:
Q Do you recognize this article?
A Yes, I do.
Q And what is it?

kit to measure the amounts of virus. It's the whole issue of diagnostic claims versus therapeutic claims.
BY MS. RHYU:
Q Do you know who at Roche or which group at Roche was responsible for the clinical trials related to approval of this kit for monitoring therapy?
A Joanne Spadoro was the person who oversaw the development of the work. I can't remember now who was responsible for the regulatory submission.
Q And where is Joanne Spadoro?
A She works in New Jersey, at Roche.
Q Do you know if anyone else is -- oversees clinical trials related to this kit?
A I can't remember the names of the people in the regulatory group. I'm drawing a blank on the names of the people in the regulatory group.
Q I believe you testified a little while ago that, sitting here today, you cannot -- you cannot say whether you can accurately measure viral load using HIV DNA from PBMCs. Am I -- is that correct, that you said that?
MR. BOOZELL: Misstates his testimony.
THE WITNESS: No, that's not what I said. What I said was what I didn't know was the value of quantitating DNA for therapeutic monitoring.

BY MS. RHYU:
Q And what's the basis for your not being certain of that?
A Because the extent of studies with DNA aren't as substantive as the studies that have been done with RNA to date.
Q Are they -- are there -- do you know the existence of some data from DNA studies related to monitoring effectiveness of treatment that suggests that the monitoring of the DNA is not an accurate measure of viral load?
MR. BOOZELL: Objection. Vague and ambiguous, complex.
THE WITNESS: I don't recall any experiments that indicate that it's not sufficient for efficacy, only that the data is not available.
BY MS. RHYU:
Q Do you know if anyone is working on that now?
MR. BOOZELL: Same objections.
THE WITNESS: I don't know. I mean, among the reasons of the movement to nearly exclusively look at RNA was the early use of p24 antigen to determine efficacy of therapeutic intervention, and p24 antigen is a protein bound in the virus particle, so that in order to do comparison experiments with the p24 antigen, it

would have -- it's most logical to compare it to the RNA in the virus particle.
BY MS. RHYU:
Q Did you know that when you were doing your quantitation studies with proviral DNA?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: No, p24 was after the fact.
BY MS. RHYU:
Q Do you know approximately what time that came up?
A I don't remember.
Q Do you have a general idea of when you became aware of that problem?
MR. BOOZELL: Same objections.
THE WITNESS: I don't remember when -- I don't remember when they started using p24 in sera.
BY MS. RHYU:
Q Not even generally, you don't remember?
MR. BOOZELL: Asked and answered.
THE WITNESS: No, I don't.
BY MS. RHYU:
Q Do you know Dr. Mark Holodniy?
A I do.
Q And when did you first meet Mark Holodniy?
A I don't remember the date when I first met him.

Q Under what circumstances did you first meet Dr. Holodniy?
A In the context of talking to Tom Merigan and getting to know the people that either worked in his laboratory or were working with him at Stanford.
Q Did you ever talk with Tom Merigan at Stanford as to -- once you became an employee of Cetus?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I don't remember a specific event. It wouldn't surprise me if I did, because I went to Stanford a couple times.
BY MS. RHYU:
Q What was the reason for your going to Stanford a couple of times as an employee of Cetus?
A One was we had a collaboration with Tom, so that if I was in the area and I thought it was productive to stop by and talk -- plus I had friends at Stanford, so if I was going to be there anyways, I might stop by.
Q And the collaboration you had with Tom, was that the IL-2 collaboration?
A I didn't collaborate with Tom on IL-2.
Q What collaboration are you speaking of?
A The use of PCR to detect HIV.
Q What's your understanding of your collaboration

with Tom --
MR. BOOZELL: Objection.
BY MS. RHYU:
Q -- Merigan --
MR. BOOZELL: Objection. Vague.
BY MS. RHYU:
Q -- regarding the use of PCR to detect HIV?
A My recollection is we trained him how to do PCR and how to detect HIV in the -- in the optimal way.
Q Do you have a recollection of the time period when you were at Stanford to discuss that with Tom Merigan?
A No, I don't.
Q Are you aware of the existence of any collaboration agreement that describes a collaboration with Tom relating to detecting PCR -- detecting HIV using PCR?
A Other than, like, a materials transfer agreement?
Q Yes.
A Don't recall.
Q Did you meet Mark Holodniy at Stanford?
MR. BOOZELL: Vague and ambiguous.
THE WITNESS: I don't remember whether I met him first in Emeryville at Cetus or at Stanford or at a

scientific meeting.
BY MS. RHYU:
Q How many times have you spoken with Mark Holodniy generally, just an estimate?
A Ten or more times.
Q 20 times?
A I wouldn't want to put a number on it. I mean, we met at scientific meetings. When he was at -- in Emeryville, we touched base then, multiple times per year.
Q Do you have any specific recollection of any discussions you've had with Mark Holodniy relating to HIV?
A Not a specific recollection, but, you know, because of our mutual interest in HIV, and because of us doing PCR on HIV, we had multiple discussions.
Q Did Mark Holodniy tell you that he was interested in quantifying RNA levels in plasma?
A Yes.
Q At the time that Mark Holodniy told you that, had you been conducting -- had you or anyone in your lab been conducting experiments to quantify RNA levels in plasma?
A I don't remember. What would have been important is not where the nucleic acid came from, but

whether it was DNA or RNA, and we had been doing RNA experiments.
Q So you specifically remember a conversation with Mark Holodniy regarding quantitation of RNA levels in plasma -- strike that.
You specifically remember that the conversation that you had with Mark Holodniy regarding RNA levels in plasma took place after you had been looking at RNA levels in PBMCs?
MR. BOOZELL: Objection. Vague and ambiguous, misstates his testimony.
THE WITNESS: I don't remember -- I have a general recollection of talking to Mark, I don't specifically remember when I spoke with him, and I don't remember the specific dates.
BY MS. RHYU:
Q Do you remember if you ever gave him any reagents?
MR. BOOZELL: Objection. Vague and ambiguous, especially as to "you."
THE WITNESS: It's unlikely that I personally would have given him reagents. There were people in the organization that were responsible for providing enzymes and oligonucleotide primers and protocols, et cetera. But I don't remember handing him reagents.

BY MS. RHYU:
Q Are you specifically aware of any -- any instances where you or any of the members of your laboratory gave Mark Holodniy any reagents?
A No. I mean, I oversaw the laboratory. I wasn't involved in the reagents, so I don't specifically recall.
Q What was your understanding of why Dr. Holodniy was at Cetus?
A To learn how to do PCR for HIV and use it in the context of the IL-2 trials.
Q And how did you gain that understanding?
A Discussions with Eric Groves and from Mark.
Q Anyone else?
A Can't remember.
Q We talked about the Kodak litigation earlier. Am I remembering correctly that you testified that you submitted a declaration in connection with the Kodak litigation?
A Yes, that's true.
Q Did you submit that declaration in about November of 1991?
A I don't remember when it was.
Q Is that consistent with your recollection of the events relating to your involvement with the Kodak

Q Did you monitor The Journal of Infectious Diseases?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I was aware of the HIV work being done, and I was aware of what was being done downstairs.
BY MS. RHYU:
Q Did you -- what did you do to stay abreast of developments that were happening in relation to quantitation of HIV?
A In general or in the clinical group?
Q In general, as of the early 1990s.
A I went to scientific meetings, reviewed scientific manuscripts, talked to people in meetings and touched base with Mark Holodniy, David Katzenstein and Eric Groves about what they were doing downstairs.
Q Did you believe that you should be an author on this publication when you first saw it, Exhibit 1?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I don't remember requesting authorship on this paper.
BY MS. RHYU:
Q Do you remember ever discussing this article, Exhibit 1, with your colleagues at Cetus?
A I remember general discussions with my colleagues at Cetus about these experiments, but I

don't -- I can't recollect, you know, a specific discussion right now.
Q Do you remember having any discussions with Mark Holodniy regarding this Exhibit 1?
A I generally recall talking to Mark about how things were going.
Q Did you design any of the experiments reported in Exhibit 1?
MR. BOOZELL: Objection. Vague and ambiguous. And go ahead and spend as much time as you need reviewing it to determine the answer to the question.
THE WITNESS: I don't remember designing any of the specific experiments. They show up as figures in Exhibit 1.
BY MS. RHYU:
Q I'm handing you what was previously marked Exhibit 46, it's a publication in the Journal of Clinical Investigation, published in November 1991. And Mark Holodniy is the first author. Do you recognize Exhibit 46?
A I generally recollect it.
Q When did you first see Exhibit 46, generally?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I don't remember a specific time.
BY MS. RHYU:

Q Would you have seen it while you were at Cetus?
A Yes.
Q Would you have seen it as part of your review of publications to keep abreast of developments in your field?
MR. BOOZELL: Objection. Vague and ambiguous, misstates his testimony.
THE WITNESS: I generally read papers on HIV.
BY MS. RHYU:
Q Did you ever discuss this publication or the experiments in the publication with Mark Holodniy?
A I don't remember.
Q Did you ever discuss Exhibit 46 or the experiments described within it with Dr. Merigan?
MR. BOOZELL: And go ahead and take as much time as you need to look at it to answer the question.
THE WITNESS: I remember talking to Tom in general terms about this, but I didn't design any of the experiments that are in figures -- in Figure 3.
BY MS. RHYU:
Q Why are you limiting that to Figure 3? Why are you limiting your response to Figure 3? Did you design any of the experiments in this article?
A Well, I don't have time to read the entire article, so I'm just trying to look at the figures,

which is where the data is and look at the materials and methods and --
Q I see.
A -- to try to give you, within reason, as complete an answer as I can.
Q I see. But based on -- well, let me ask you this. Did you ever tell Dr. Merigan that you believed you should have been an author on this publication, Exhibit 46?
A I don't remember saying to Tom that I should be an author on this.
Q Did you have that belief, that you should be an author on Exhibit 46?
A Not that I recall.
Q Was it your understanding that Cetus had a proprietary interest in any of the work described in Exhibit 46 when you first saw this article back in the 1990 time frame?
MR. BOOZELL: Objection. Vague and ambiguous, calls for a legal conclusion, calls for speculation, lacks foundation.
THE WITNESS: So the question again is?
(Record read.)
MS. RHYU: And I correct that with '91.
MR. BOOZELL: And it also misstates his

testimony.
THE WITNESS: I don't know what the specific relationship was in terms of Mark working at Cetus on the -- on the assay, so I would be the wrong person to ask.
BY MS. RHYU:
Q Based on your interactions with Tom Merigan, did you think that Cetus had some proprietary interest in the experiments described in Exhibit 46?
MR. BOOZELL: Again, vague and ambiguous, lacks foundation, calls for speculation, calls for a legal conclusion.
THE WITNESS: Virtually all of the technology refers to Cetus technology, so, I mean, what I don't know is to what extent the -- I don't recall the agreement with Tom Merigan's lab as he worked -- he and his colleagues worked in the therapeutics group, so I can't answer that question.
BY MS. RHYU:
Q But you never said to Tom Merigan, "The experiments you describe in the JCI article are proprietary to Cetus" --
MR. BOOZELL: Same --
BY MS. RHYU:
Q -- you never said that?

MR. BOOZELL: Sorry. Same objections.
THE WITNESS: I don't remember saying that to Tom.
BY MS. RHYU:
Q Do you remember submitting the article to the internal patent committee -- and when -- I'm referring to article Exhibit 46. Do you remember submitting that to the internal patent committee to assess Cetus's rights?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: This is a paper that was in the therapeutics group, so it wouldn't have come through me.
BY MS. RHYU:
Q You mean an invention disclosure wouldn't have come through you? I don't understand what you're saying when you say it wouldn't have come through you.
A An invention disclosure in a publication review would not have gone through my office.
Q I'm asking you, after seeing it published, did it occur to you that Cetus might have proprietary interest in the work described in this publication?
MR. BOOZELL: Objection. Vague and ambiguous, lacks foundation, calls for a legal conclusion.
THE WITNESS: Yeah, I didn't think of it one way or the other.

BY MS. RHYU:
Q Is it your understanding that after a paper is published, an inventor still has a year to file for a patent on the information that's disclosed in that publication?
MR. BOOZELL: Same objections.
THE WITNESS: The policy has changed. There was a time when you had a year in Europe, but you lost your ability to file in the U.S., so the -- in the -- in this time period, my recollection was that you had a year to file for Europe, but you had to file immediately for the U.S., but I may have be remembering that incorrectly.
BY MS. RHYU:
Q Do you have a place where you store publications that are relevant to your field of research?
MR. BOOZELL: Objection. Vague and ambiguous as to time.
THE WITNESS: Now or then or --
BY MS. RHYU:
Q Now.
A Now mostly I keep things stored as PDFs.
Q And then, in the 1990 time frame?
A I kept hard copies in file folders.

Q Did you take those hard copies with you to Roche when you left Cetus?
A No, I --
MR. BOOZELL: Objection. Vague and ambiguous, and asked and answered.
THE WITNESS: No, I left everything at Roche.
BY MS. RHYU:
Q No, the question was whether you took those hard copies to Roche when you left Cetus.
MR. BOOZELL: Same objections.
THE WITNESS: To the best of my recollection, yes.
BY MS. RHYU:
Q Do you remember discussing this publication with anyone at Roche, Exhibit 46?
A No.
(Deposition Exhibit 552 marked.)
MS. RHYU: I'll hand you what's been marked Exhibit 552, and I apologize, I only have one copy. Perhaps you can look on it together.
Q Now that I've handed it to you, I realize I haven't looked at the Bates -- I haven't read the Bates range into the record. Could you do that for me?
A 552, and the RMS 0014307, RMS -- to RMS 0014654.

regulatory group.
(Deposition Exhibit 553 marked.)
BY MS. RHYU:
Q I'm handing you what's been marked as Exhibit 553, and it doesn't have a production number, but it is -- it has a notation "PCR Protocols. A Guide to Methods and Applications."
MR. BOOZELL: Can I ask what the source of this document is, Counsel?
MS. RHYU: I believe the source of this document is the publisher of this document, of the -- of the "PCR Protocols" book.
MR. BOOZELL: It's a book called "PCR Protocols"?
MS. RHYU: Yes.
Q Are you familiar with a book called "PCR Protocols. A Guide to Methods and Applications"?
A I am.
Q Are you an editor of that book, "PCR Protocols"?
A I am. I was.
Q And the other editors are Michael Innis, David Gelfand and Thomas white?
A That's correct.
Q And the second page of this document has a

section that says "Bibliographic & Ordering Information." Do you see that?
A Yes.
Q And do you see where it says "publication date: 1989 December 28th"?
A Yes.
Q "Imprint: ACADEMIC PRESS"?
A Yes.
Q Is that consistent with your recollection -- is that publication date consistent with your recollection of the date that the "PCR Protocols" book was published?
A Yes.
Q I'm handing you what was previously marked as Exhibit 34. Do you recognize this document? It's entitled "Invention Disclosure," and it's dated 1/9/1990.
A Yes, I generally do.
Q You do? When do you recall first seeing it?
A I don't remember when I saw it, I just generally remember seeing it.
Q Do you recall seeing it while you were still at Cetus?
A I don't remember.
MR. BOOZELL: I'm going to object that the questions are vague and ambiguous and potentially

misleading, as it seems that there are actually two documents in this exhibit. That being said --
BY MS. RHYU:
Q Do you know if you were involved in assessing whether or not to file a patent application related to this invention disclosure, Exhibit 34?
MR. BOOZELL: Same objections.
THE WITNESS: I don't recall.
BY MS. RHYU:
Q You don't recall at all?
A Correct.
Q Do you understand that this is an invention disclosure that was submitted by Mark -- Mike Konrad for Mark Holodniy?
MR. BOOZELL: Objection. Misstates the document, and add on my previous objections.
THE WITNESS: I do see writing at the top indicating that it's from Mike Konrad and indicating that it's for Mark Holodniy.
BY MS. RHYU:
Q Do you recall ever considering an invention disclosure that was submitted or that was filled out by Mark Holodniy?
A No.
MR. BOOZELL: Objection. Vague and ambiguous.

THE WITNESS: No, I don't.
BY MS. RHYU:
Q If you'll turn to the last page of the document, Exhibit 34, I just wanted to ask you to look at that "copy to" list. You're the first name on the "copy to" list. Can you tell me who Raymond is?
A John Raymond.
Q And what was John Raymond's position?
A He was responsible for development for the research products. I'm not -- I can't remember specifically for this time period, 1990, but John oversaw the development of the research products.
Q How about JSF?
A Probably JSP, for Jeff Price.
Q I see. And the last name there, do you recognize that?
A I don't.
Q Do you believe that you received this publication pursuant to Cetus's publication review policy?
MR. BOOZELL: Objection. Vague and ambiguous.
MS. RHYU: Let me start over.
Q Do you see that page RMS 00544 has an abstract on it?
A I notice there's an abstract on 00544.

Q Who is Tom MacMahon?
A Tom MacMahon is presently the president or CEO of Laboratory Corporation of America.
Q Did he ever hold a title at Roche?
A Yes, he was responsible for U.S. in vitro human diagnostics.
Q Where was he based when he was working at Roche?
A New Jersey.
Q Did you interact with Mr. MacMahon?
A Yes.
Q What was the extent of your interaction with Mr. MacMahon?
A He was overall responsible for the program, so I didn't have daily or weekly discussions with him, but every once in a while, we would touch base when I was in the area or he was in the area.
Q So when you say the program, are you saying he was overall responsible for the research program related to the Amplicor kit?
A Yes.
Q Have you had a chance to read this exhibit?
A No. Would you like me to?
Q Yes, I would like you to.
A I've read this document.

Q Does it refresh your recollection as to whether you've ever seen this document before?
A No, it doesn't.
Q Do you think you've ever seen this document before?
MR. BOOZELL: Asked and answered.
THE WITNESS: I don't remember seeing it.
BY MS. RHYU:
Q Do you see the references in the second paragraph to U.S. Patent Nos. 5,650,268 and 5,631,128?
A I see that.
Q Do you have any idea what those patents relate to?
A I don't. But they indicate that they're in the area of AZT drug resistance.
MS. RHYU: Marking, as Exhibit 555, U.S. Patent No. 5,631,128, the patent is entitled "Polymerase Chain Reaction Assays for Monitoring Antiviral Therapy and Making Therapeutics Decisions in the Treatment of Acquired Immunodeficiency Syndrome," and the inventors are Michael Kozal and Thomas Merigan.
(Deposition Exhibit 555 marked.)
BY MS. RHYU:
Q Have you ever seen this patent before?
A No, I haven't.

Q Are you aware of its existence?
A No.
Q Were you aware of its existence before I showed it to you just now?
A I don't remember ever seeing it.
Q Okay.
(Deposition Exhibit 556 marked.)
MS. RHYU: And I'm marking, as Exhibit No. 556, U.S. Patent No. 5,650,268. It's a second patent issued to Kozal and Merigan.
Q Does this look familiar?
MR. BOOZELL: Objection. Vague and ambiguous.
THE WITNESS: I don't remember seeing this.
BY MS. RHYU:
Q Do you know who Michael Kozal is?
A He was somebody that worked with Tom.
Q Did you ever meet him?
A Yes.
Q Did you know what his work was about, what he was working on in Tom Merigan's lab?
MR. BOOZELL: Objection. Vague and ambiguous, especially as to time.
THE WITNESS: I don't remember the specifics.
BY MS. RHYU:
Q Do you remember reading any publications by

Mike Kozal and Tom Merigan?
A Right now, I don't.
Q Who took over Tom MacMahon's position at Roche after Tom MacMahon left?
A Kathy Ordonez.
Q Could you spell that, please.
A O-r-d-o-n-e-z.
Q What was Tom White's position in 1998?
MR. BOOZELL: Objection. Vague and ambiguous.
BY MS. RHYU:
Q His position at Roche?
A Vice president of research and development.
Q Do you recall any discussions at Roche relating to this letter that was forwarded by Tom MacMahon to various people at Roche?
A No, I don't.
Q I'm speaking about Exhibit 554.
A I don't recall any discussions at Roche involving 554.
Q I'm handing you what's been marked previously as Exhibit 16, it's U.S. Patent 6,503,705. Do you recognize Exhibit 16?
A No, I don't.
MR. BOOZELL: Just want to note for the record, for whatever it's worth, that the first page has an RMS

prior to it being considered final.
THE VIDEOGRAPHER: Any further questions?
MR. BOOZELL: That is all.
THE VIDEOGRAPHER: This concludes today's deposition of Dr. John Sninsky. The number of media used was four. We are going off the record at 6:01 p.m.
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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:
That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.
I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.
IN WITNESS WHEREOF, I have this date subscribed my name.

DATED: _____

_____
GINA GLANTZ
CSR No. 9795

I, JOHN J. SNINSKY, Ph.D., do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.
EXECUTED this _____ day of _____, 20___, at _____, _____.
(City) (State)

_____
JOHN J. SNINSKY, Ph.D.