

EXHIBIT

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9.4.11

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMGEN, INC.)	
)	
Plaintiff,)	Civil Action
)	
v.)	No. 87-2617-Y
)	
CHUGAI PHARMACEUTICAL CO., LTD.,)	(Magistrate Saris)
AND GENETICS INSTITUTE, INC.,)	
)	
Defendants.)	
)	
)	

Designated Deposition
Transcript of Takaji Miyake

A 63933

4, 18.1

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CONFIDENTIAL - SUBJECT TO ITC PROTECTIVE ORDER
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMGEN INC.,
Plaintiff,

v.

CHUGAI PHARMACEUTICAL
COMPANY, LTD., and
GENETICS INSTITUTE, INC.,
Defendants.

NO. Civil Action
87-2617-Y

DEPOSITION OF DR. TAKAJI MIYAKE

Thursday, October 13, 1988
Friday, October 14, 1988
Santa Barbara, California

REPORTED BY:
SUZANNE GUIMOND
CSR No. 7465

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Terine Hall & Associates

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A 63960

1 associated with it.

2 Q In this letter to Mr. Smurgil, you
3 say that your erythropoietin experiment will
4 begin around the beginning of September 1982.
5 What experiment was that? Was that an attempt to
6 purify erythropoietin that you're referring to?

7 A We did not have the facilities with
8 which to do purification. And we did not have
9 sufficient staffing.

10 MR. O'TOOLE: I ask the reporter to mark as
11 ^{Dx 816} ~~Plaintiff's Exhibit 1205~~ a document bearing
12 production No. 15076. I don't think it is
13 necessary to ask you questions on this, Doctor.
14 I ask the reporter to mark as ^{Dx 983} ~~Plaintiff's~~
15 ~~Exhibit 1206~~ a document bearing production
16 No. 15074.

17 Q Looking at the first paragraph of
18 this letter, ^{Dx 983} ~~1206~~, Dr. Miyake, is it true that at
19 this time in the fall of 1982 you were interested
20 in other hematopoietic hormones, but Genetics
21 Institute was interested in EPO?

22 A Yes, I believe so.

23 Q Between the fall of 1982 and the
24 fall of 1983, there seems to be a hiatus in
25 activity involving EPO, as far as you and

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A 64130

1 Genetics Institute are concerned. Can you tell
2 me what caused that hiatus?

3 A I was very busy back then, but I
4 can't remember with any clarity any other reason.
5 If I were to look back into my lab notes I might
6 be able to tell you a little more. Granulocyte
7 and macrophage colony stimulating factors, that
8 and granulopoietin, and probably -- I think it's
9 granulopoietin was the stimulating factor. I
10 think, if I remember correctly. I was very busy
11 with that kind of research.

12 Q Would you look at Plaintiff's
13 Exhibit ⁶⁵⁴~~1037~~ next. If you look at the last
14 paragraph on the first page, you'll see that
15 Dr. Yang is asking you for a sample of pure EPO.
16 And if you'll turn to the next page of the
17 letter, he refers to a discussion which he had
18 with you. He says that you said that in your
19 preliminary purification trials, you may already
20 have some EPO samples with fairly high purity.
21 Did you say that to Dr. Yang?

22 A Now it was in June of '83 that I got
23 the grant, and the research work started in
24 August of '83. And I think maybe at this point I
25 had gotten some.

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A 64131

1 A When you say this work --
2 Q The in vitro assay.
3 A Yes, that is correct.
4 Q Did you combine fractions one
5 through six on page 84 of your notebook and send
6 a portion of the material to G.I.?
7 A Combined?
8 Q Yes.
9 A I have no recollection of such.
10 Q Let me see if I can refresh your
11 recollection. Look at Plaintiff's Exhibit ⁵⁸⁸1039,
12 which is Dr. Hewick's laboratory notebook at
13 Genetics Institute, and to page -- do you have
14 it? You'll see on the top of that page a
15 reference to EPO from Miyake. It says, "seven
16 milliliters, total A.U. 0.360." Did you provide
17 information to Genetics Institute with respect to
18 the A.U. value on material that you provided to
19 Genetics Institute in the spring of 1984?
20 A A.U. of what?
21 THE INTERPRETER: Excuse me, did you say
22 "A.U. value"?
23 MR. O'TOOLE: To the A.U. value.
24 THE WITNESS: At that time I was in Japan
25 in April. At about that time, it is true that

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A 64153

AM-ITC 00110825

1 much was going on regarding the negotiations for
2 erythropoietin with G.I. But the negotiations
3 were not being conducted prior to my departure
4 for Japan. It was in the end of April that I
5 called Dr. Shimizu and told her to send this to
6 G.I.

7 ~~MR. RICHTER: I need about one minute.~~

8 ~~(Brief recess.)~~

9 ~~(Record read.)~~

10 MR. O'TOOLE: I ask the reporter to mark as
11 Plaintiff's Exhibit ⁶⁷³ 1479 a document bearing
12 G.I. production No. 32230.

13 Q When materials were sent from your
14 laboratory to Genetics Institute in 1984, were
15 they labeled at Wright State in any way?

16 A Samples of what?

17 Q Samples of the EPO material.

18 A Which one of these are you talking
19 about?

20 Q I'm not talking about any of the
21 materials on Exhibit ⁶⁷³ 1479 right now, but just
22 generally.

23 A It was not labeled specifically as
24 EPO.

25 Q No, but did it have a label with

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A 64154

1 on the vials, but rather this was just simply the
2 condition of the labels on certain vials which
3 were located. As to who put the information on
4 the vials, I cannot say.

5 ~~BY MR. O'TOOLE:~~

6 Q Was a portion of the materials
7 reported on page 84 of your notebook sent to
8 Genetics Institute?

9 A Yes.

10 Q Were the fractions combined or were
11 only some fractions sent to Genetics Institute?

12 A No, that was not the case. They
13 were not combined. I instructed that
14 fraction two be sent.

15 Q You didn't have seven milliliters of
16 fraction two, did you, Dr. Miyake, as a result of
17 the purification step reported on page 84 of your
18 notebook?

19 A I don't know whether I wrote this,
20 but the total A.U. here is correct. If you look
21 on page 85 and on page 86, you see the results of
22 the SDS page.

23 Q Yes.

24 A And you see there is no total A.U.
25 which corresponds to this.

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A 64156

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