

## **EXHIBIT 3**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

FRITSCH et al.	)	
	)	Interference No. 102,097
vs.	)	and
	)	Interference No. 102,334
LIN	)	
	)	Examiner-in-Chief:
	)	Marc L. Caroff

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DEPOSITION OF: JOAN CHRISTINE EGRIE

TAKEN ON: April 15, 1991

**CERTIFIED COPY**

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REGISTERED PROFESSIONAL REPORTER  
FILE NO.: 1-2079-1

AM 17 029576  
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JOAN C. EGRIE

1 A. Yes.

2 Q. Would you refer, now, to another article  
3 which has been previously marked as Fritsch exhibit 4.  
4 Doctor, are you the J.C. Egrie that appears as an author  
5 on this paper?

6 A. Yes.

7 Q. Did you author the information which appears  
8 on pages 697 through 698 under the section called  
9 "Structural features of EPO"?

10 MR. BORUN: That's been asked and answered. She is  
11 an author on this paper.

12 BY MR. FEILER:

13 Q. Is that your answer?

14 A. I was an author on the paper, yes.

15 Q. And did you believe this paper to be  
16 accurate when you published it?

17 A. I believed it to be accurate, yes.

18 MR. FEILER: Could you make exhibit 115 available  
19 to the witness.

20 Q. Would you refer to -- I guess it's notebook  
21 page 69 in exhibit 115.

22 MR. BORUN: Document No. L01074?

23 MR. FEILER: That's correct.

24 Q. Did you perform the work on that page,  
25 Doctor?

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1 A. Excuse me?

2 Q. Did you perform the work that's reflected on  
3 that page?

4 A. Yes.

5 Q. Is it correct that this is a western?

6 A. Yes.

7 Q. Is it correct that the western includes lot  
8 82?

9 A. Yes.

10 Q. And is it also correct that the western  
11 includes a sample from Alpha Therapeutics?

12 A. That's correct.

13 Q. And is it correct that that Alpha  
14 Therapeutics sample is EPO?

15 A. It would be a preparation from that company  
16 that contained EPO.

17 Q. Is it true that the Alpha Therapeutics EPO  
18 is a naturally-occurring EPO?

19 A. Could you be more specific?

20 Q. Do you know the source of the Alpha  
21 Therapeutics EPO?

22 A. I believe it was urine.

23 Q. Human urine?

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24 A. I'm not completely sure.

25 Q. Doctor, would you refer in that exhibit to

1 notebook page 65, Lin document No. L01070.

2 Do you have it, Doctor?

3 A. Yes.

4 Q. Am I correct, Doctor, that this is a part of  
5 the same experiment that's reflected on page 69 of the  
6 notebook?

7 A. Yes.

8 Q. And is this also in your handwriting?

9 A. Yes.

10 Q. And does it not indicate that Alpha  
11 Therapeutics' EPO is a human urinary prep?

12 A. Yes.

13 Q. Could you refer back to page 69 of your  
14 notebook. Is it true that lot 82 material gave the same  
15 molecular weight as the CHO material?

16 A. It says CHO and lot 82 same size, although  
17 CHO is very heterogeneous.

18 Q. So is it true that lot 82 gave the same  
19 molecular weight as CHO?

20 A. It says it has the same size.

21 Q. Is it also true that Alpha Therapeutics'  
22 material gave the same molecular weight as the CHO  
23 material?

24 A. It says Alpha Therapeutics approximately  
25 same size as CHO and lot 82.

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1 Q. Isn't it true that the results of this  
2 experiment indicate that lot 82 and the Alpha Therapeutics  
3 material had the same carbohydrate composition as the CHO  
4 material?

5 A. It says they have approximately the same  
6 size. The two glycoproteins are approximately the same  
7 size.

8 Q. And isn't it true that that's indicative of  
9 the same carbohydrate composition?

10 A. No. Not necessarily at all.

11 MR. FEILER: Could I have the last three questions  
12 and answers back.

13 (Record read.)

14 BY MR. FEILER:

15 Q. Is it consistent?

16 MR. BORUN: Objection. Lack of foundation, vague.

17 THE WITNESS: It does not allow you to decide one  
18 way or the other.

19 BY MR. FEILER:

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20 Q. Is it your testimony, then, Doctor, that a  
21 difference in molecular weight on a western does not  
22 suggest a difference in the carbohydrate composition of  
23 the molecules?

24 MR. BORUN: Counsel, are you trying to characterize  
25 the witness's testimony or are you giving her a leading