EXHIBIT D

THE VIDEOGRAPHER: This is the videotaped deposition of Pat Ryan, taken by the plaintiff in the matter of Allergan, Inc., Allergan Sales, LLC, versus Alcon, Inc., Alcon Laboratories, Inc. and Alcon Research LDD, Case Number 04-968-GMS in the United States District Court for the District of Delaware.

This deposition is being held at the office of Kelly Hart and hole in Fort Worth, Texas, on August 4th, 2005.

The court reporter is Lisa Blanks, and I am Stephen Taylor, the videographer. We are both here from the firm Benchmark Reporting Agency in Minneapolis, Minnesota. We're going on the record at 9:02.

Will counsel please state their appearances for the record at this time?

MR. SINGER: Jonathan Singer Fish & Richardson for the plaintiffs.

MR. SHEAR: Chad Shear, Fish & Richardson for the plaintiff.

MS. MULLALLY: Veronica Mullally, Orrick, Herrington & Sutcliffe for Alcon.

THE VIDEOGRAPHER: Will the court reporter please swear in the witness?

PATRICK RYAN,

having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined

work product.

Q. BY MR. SINGER: Are you going tow follow your

counsel's instruction

A. Yes.

Q. By the time you had -- by this date, July 6, 2004, had you obtained an opinion of the counsel with respect to the 337 patent?

MS. MULLALLY: I'm going to instruct you not to answer on the basis of attorney-client privilege and work product.

Q. BY MR. SINGER: Are you going to follow your counsel's instruction

A. Yes.

Q. BY MR. SINGER:Can we stipulate that every time you give that instruction he's going to follow it. Can you stipulate to that that I won't have to ask it, Mr. Ryan. And you won't object that I don't ask that question

MS. MULLALLY: Yes.

Q. BY MR. SINGER: Mr. Ryan, the prior pages of the document we've marked as Ryan 10, with respect to the 337 patent, the file history of the 337 patent, do though not

A. Yes.

Q. Did you review the file history?

A. Yes.

Q. Did you come up with these arguments?

MS. MULLALLY: Objection, we've already told

you we're not going to have this witness testify what the basis for the opinions and statements in this letter. I'm going to instruct you no the to answer on the base of attorney-client privilege and work product.

Q. BY MR. SINGER: When did you obtain the file history of the 337 patent

A. I don't remember.

Q. BY MR. SINGER: Did you review the file history of the 210 patent that we've marked as Ryan 4

A. Yes.

Q. When did you obtain that?

A. I don't remember.

Q. Is there an estimate of when you obtained it that you can recall?

MS. MULLALLY: Objection, asked and answered.

THE WITNESS: Not in time, but shortly after the issuance of the 210 and then again shortly after the issuance of the 337.

Q. BY MR. SINGER: Did you conduct a prior art search in connection with the document marked Ryan 10

A. Yes.

Q. When did you conduct the prior art search?

A. I don't remember.

Q. Who did the prior art search?

A. I did.

Q. Did you have any assistance in the prior art search?

A. Yes.

Q. Who assisted in you the prior art search?

MS. MULLALLY: You can answer that question if

it doesn't require you to reveal attorney work product information.

THE WITNESS: A literature searching person in our -- that works at Alcon.

Q. BY MR. SINGER: Did you hire outside counsel to help you with a prior art search

MS. MULLALLY: You can answer that question if it doesn't require you to give attorney work product information.

THE WITNESS: I didn't hire any outside could you please to conduct a prior art search of this letter.

Q. BY MR. SINGER: Did you hire outside counsel to help with this they are

MS. MULLALLY: Emgoing to instruct you not to answer that question on the basis of attorney-client privilege and work product.

Q. BY MR. SINGER: Was this letter provided to management at Alcon

A. I don't remember if this letter was.

Q. BY MR. SINGER: Is there a different letter that was provided to management that had these arguments in it

A. I don't think there was a letter. If there was any remember, it was this one.

Q. Is there a standard procedure at Alcon for preparing paragraph 4 certifications and notice letters such as this?

MS. MULLALLY: You can answer that question if it doesn't require you to reveal attorney-client information. I don't think there's a standard

procedure.

Q. BY MR. SINGER: Have you done them before

A. Yes.

Q. About how many?

A. Four or five.

Q. With respect to the prior art search do you know when you cone deducted that prior article search?

MS. MULLALLY: Objection, asked and answered.

THE WITNESS: I don't.

Q. BY MR. SINGER: It was before this letter

A. Yes.

Q. Was it way before, like early in the year or right before?

MS. MULLALLY: Same objection, asked and

answered.

THE WITNESS: I don't remember. It may have even started the year before that, and it -- yeah, I don't remember. It probably spanned some weeks.

Q. BY MR. SINGER: This

MR. SINGER: In connection with your role on the Brimonidine PQ team, did you also monitor published patent applications of Allergan related to ALPHAGAN P?

A. I think so.

Q. With respect to the prior art search, was this a thorough search that took several weeks as you said?

MS. MULLALLY: You can answer that question if it doesn't require you to reveal attorney clients privilege or work product information.

THE WITNESS: I think it was fairly thorough. The reason why it took several weeks and maybe longer

than that is not just because of how thorough this search was, but because of other assignments.

Q. But you were satisfied the search was thorough?

A. I was.

Q. Have you received an opinion of counsel on the solubility testing identified in Ryan 5 and Ryan 6?

MS. MULLALLY: I'm going to instruct you not to answer on the basis of attorney-client privilege and work product.

Q. BY MR. SINGER: Have you received opinion of counsel on infringement of the 337 patent and suit which you've identified as Ryan 7?

MS. MULLALLY: Same instruction. I instruct you not to answer.

MR. SINGER: Did you prepare either of those? Either a opinion of counsel or solubility or opinion of counsel on infringement of the 337 patent.

MS. MULLALLY: I'm going to instruct you not to answer on the basis of attorney-client privilege and work product.

Q. BY MR. SINGER: Rather than repeatedly noting my objections on the record, I believe that all of this have been waived by the production of the solubility testing

MS. MULLALLY: Well, I can let you answer whether you prepared an opinion of counsel with respect to solubility.

MR. SINGER: You can?

MS. MULLALLY: Yeah, he can answer.

A. No.
Q. Who is your supervisor?
A. My supervisor is James Arno.
Q. He's general counsel?
A. He was chief patent counsel.

Q. Did you inform Mr. Arno of what you were doing with respect to the solubility studies that we identified today?
A. At least superficially, yes.
Q. What does that mean?
A. The fact that I was doing those things, I mentioned to him.
Q. Did you accepted him an e-mail or telephone him?
A. No, I would have just told him.
Q. Was he involved in the decision to do those tests that we've talked about today?
A. No.
Q. So these were -- at the legal level you were the decision maker to do the tests?
A. Yes, I think so.
Q. Mr. Ryan, I asked you some questions about the paragraph 4 letter about the file history of the 337 patent. Do you recall those questions?
A. Yes.
Q. I neglected to ask about the file issue of the 834 patent did you also review the file history of the 834 patent before signing the 4 certification?
A. I think so.
Q. You think so or do you know so?

A. I know I would have done it. I can't remember doing it.

Q. Did you obtain the file history before signing the paragraph 4 certification?

A. Yes, I must have and if I retained it I know I reviewed it so the appears is yes.

Q. I have no further questions at this time. I'm not going to conclude the deposition subject to my objection about the scope of the privilege waiver. I think that you waived privilege on these testings and I really don't think that any of the questions I asked today were outside the scope of what a waiver would encompass so subject to that I adjourn the deposition until we get some closure on that issue.

MS. MULLALLY: Okay, I'll take that under advisement. I have no questions.

THE VIDEOGRAPHER: Off the record at 1204.

EXHIBIT E

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July 12, 2005

VIA FACSIMILE

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Re: *Allergan Inc. v. Alcon Inc.*, 04-968-GMS

Dear Michael:

I write in response to your letter of July 6, 2005. Alcon has produced all non-privileged documents responsive to Requests Nos. 18, 28, 29, 31, 33, 34, 44. With regard to Request No. 48, Alcon will produce documents related to market studies for alpha-2-adrenergic glaucoma drugs including Alphgan®P and Alcon's proposed product. A small production in this respect will be made in the next few days along with a few additional documents that have been uncovered during the preparation of the privilege log.

Alcon will supplement its response to Interrogatory No. 1 in due course. Alcon is still in process of reviewing the prior art and will provide its contentions with regard to invalidity at the appropriate time during expert discovery.

Sincerely,

Veronica Mullally

M. Veronica Mullally

cc: John W. Shaw, Esq.

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RE Allergan v. Alcon

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