

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC. and AMNEAL
PHARMACEUTICALS LLC,
Petitioners

v.

YEDA RESEARCH & DEVELOPMENT CO. LTD.,
Patent Owner

Case No. IPR2015-00644¹
Patent 8,399,413

PATENT OWNER'S NOTICE OF APPEAL TO THE UNITED STATES COURT
OF APPEALS FOR THE FEDERAL CIRCUIT

¹ Case IPR2015-01980 has been joined with this proceeding.

Notice is hereby given, pursuant to 35 U.S.C. §§ 141(c), 142, 319; 37 C.F.R. §§ 90.2(a), 90.3(a), and Federal Circuit Rule 15(a)(1), that Patent Owner Yeda Research & Development Co. Ltd. (“Yeda” or “Patent Owner”) appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board’s modified Final Written Decision entered on December 2, 2016 (Paper 91) and its Decision on Patent Owner’s Request for Rehearing (Paper 90) in the above-captioned *inter partes* review of U.S. Patent No. 8,399,413 (“the ’413 patent”). This notice is timely filed within 63 days of the Board’s Decision on Patent Owner’s Request for Rehearing. 37 C.F.R. § 90.3(b)(1).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner indicates that the issues on appeal include the following: (1) whether the Board erred in holding that claims 1-20 are unpatentable; (2) whether the Board’s decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (3) whether the Board’s subsidiary findings were unsupported by substantial evidence and rested on legal error; (4) whether the Board’s decision on Patent Owner’s Motion to Exclude, delayed until the Final Written Decision, deprived Patent Owner of an opportunity to address the contested evidence; (5) whether the Board erred in denying Patent Owner’s Motion to Exclude; (6) whether the Board’s Final Written Decision relied on evidence that was beyond the scope of the Institution Decision and Patent Owner was therefore deprived of an opportunity to address the

evidence; (7) whether the Board erred in its Decision Denying-in-Part Patent Owner's Motion to Submit Supplemental Information; (8) whether the Board exceeded its administrative power under the Constitution when it found that claims 1-20 were unpatentable; and (9) all other issues decided adversely to Patent Owner, including any orders, decisions, rulings and/or opinions.

Simultaneously with this submission, Patent Owner is filing a true and correct copy of this Notice of Appeal with the Director of the U.S. Patent and Trademark Office and filing one copy of this Notice of Appeal, along with the required docketing fees, with the Clerk of the U.S. Court of Appeals for the Federal Circuit as set forth in the accompanying Certificate of Filing and Certificate of Service.

Dated: February 1, 2017

Respectfully submitted,
/Elizabeth J. Holland/
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CERTIFICATE OF SERVICE AND FILING

The undersigned hereby certifies that “PATENT OWNER’S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT” was served on this 1st day of February, 2017, via email, to attorneys for Petitioners:

Via email:

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The undersigned hereby certifies that “PATENT OWNER’S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT” was filed with the Director of the United States Patent and Trademark Office via hand delivery at the address below, was electronically filed with the Patent Trial and Appeal Board via PTAB E2E, and was filed with the

Clerk of the United States Court of Appeals for the Federal Circuit electronically
via CM/ECF and via first class mail at the address below on this 1st day of
February, 2017.

Via hand delivery:

Director of the United States Patent and Trademark Office
Office of the General Counsel
Patent and Trademark Office
Madison East
10B20 600 Dulany Street
Alexandria, VA 22314

Via first class mail:

Clerk of Court
United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

Dated: February 1, 2017

/Elizabeth J. Holland/
Elizabeth J. Holland