

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

COALITION FOR AFFORDABLE DRUGS II LLC,

Petitioner,

v.

NPS PHARMACEUTICALS, INC.

Patent Owner.

---

Cases IPR2015-01093  
(Patent 7,056,886 B2)

**PATENT OWNER NPS PHARMACEUTICALS, INC.'S  
NOTICE OF APPEAL**

Director of the United States Patent and Trademark Office  
Office of the General Counsel  
PO Box 1450  
Alexandria, VA 22313-1450

Notice is hereby given, pursuant to 35 U.S.C. §§ 141 and 142 and in accordance with 37 C.F.R. § 90.2(a), that Patent Owner NPS Pharmaceuticals, Inc. (“NPS”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“Board”) entered on October 21, 2016 (Paper 67) and from all underlying orders, decisions, rulings and opinions.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), NPS expects that the issues on appeal may include the following, without limitation: the Board’s determination that Claims 1-27, 31-40, and 44-45 of U.S. Patent No. 7,056,886 are rendered obvious by the prior art of record, and any finding or determination (factual or legal) supporting or related to that determination; the Board’s interpretation of the claims; the Board’s application of the legal standards for anticipation and obviousness; the Board’s findings regarding the disclosures of the prior art of record to a person of ordinary skill in the art and the acceptance of evidence on this issue; the Board’s findings regarding whether the Petitioner met its burden of establishing the prior art of record enables the claimed invention; the Board’s findings regarding whether the Petitioner met its burden of establishing that a person of ordinary skill in the art would have been motivated to combine the prior art of record in the ways stated by

the Board absent hindsight; the Board's findings regarding whether the Petitioner met its burden of establishing that a person of ordinary skill in the art would have had a reasonable expectation of successfully arriving at the claimed invention; and the Board's findings relating to objective indicia of nonobviousness and the weight to be accorded them in an analysis of obviousness; as well as all other issues decided adversely to NPS in any orders, decisions, rulings and opinions.

Concurrently with this submission, a copy of this Notice of Appeal is being filed with the Board. In addition, this Notice of Appeal, along with the required docketing fees, are being filed electronically with the Clerk's Office for the United States Court of Appeals for the Federal Circuit via the Court's CM/ECF system. NPS does not believe that the filing of this notice requires the payment of any fees to the United States Patent and Trademark Office. However, in the event that such fees are required, the Director is hereby authorized to charge any required fees to Deposit Account 20-1507 to ensure that this notice is considered timely filed and processed.

Respectfully submitted,

Dated: December 20, 2016

/Dustin B. Weeks/

Dustin B. Weeks, PTO Reg. No. 67,466

Joseph R. Robinson, PTO Reg. No. 33,448

Heather M. Ettinger, PTO Reg. No. 51,658

Attorneys for Patent Owner

## **CERTIFICATE OF FILING AND SERVICE**

I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board's Patent Review Processing System (PRPS), the original version of the foregoing, Patent Owner NPS Pharmaceuticals, Inc.'s Notice of Appeal, was filed by Express Mail on this 20th day of December, 2016, with the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office  
Office of the General Counsel  
PO Box 1450  
Alexandria, VA 22313-1450

I also hereby certify that a true and correct copy of the foregoing, Patent Owner NPS Pharmaceutical, Inc.'s Notice of Appeal, was filed on this 20th day of December, 2016 with the Clerk's Office of the United States Court of Appeals for the Federal Circuit through the Court's CM/ECF system.

I further hereby certify that a true and correct copy of the foregoing, Patent Owner NPS Pharmaceuticals, Inc.'s Notice of Appeal, was served on this 20th day of December, 2016 via email to the following attorneys of record for the Petitioner, Coalition for Affordable Drugs II LLC.:

Jeffrey D. Blake, Esq.  
jblake@merchantgould.com

Matthew L. Fedowitz, Esq.  
mfedowitz@merchantgould.com

Respectfully submitted,

Dated: December 20, 2016

/Dustin B. Weeks/

Dustin B. Weeks, PTO Reg. No. 67,466