

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PHARMACOSMOS A/S,
Petitioner,

v.

LUITPOLD PHARMACEUTICALS, INC.,
Patent Owner.

Case IPR2015-01490
Patent No. 7,754,702 B2

PETITIONER PHARMACOSMOS A/S'S

NOTICE OF CROSS-APPEAL

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Petitioner Pharmacosmos A/S (“Pharmacosmos”) hereby cross-appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on January 4, 2017 (Paper 54), and from all underlying orders, decisions, rulings and opinions, regarding U.S. Patent No. 7,754,702 (“the ‘702 patent”) that are adverse to Pharmacosmos.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Pharmacosmos anticipates that the issues on appeal may include, but are not limited to:

- Whether the Board erred in determining that Pharmacosmos did not prove by a preponderance of the evidence that claims 17 and 47 of the ‘702 patent are unpatentable under 35 U.S.C. § 103(a) as rendered obvious by the combination of WO 2004/037865 (“Geisser”) and US 2003/0232084 (“Groman”).

Pharmacosmos reserves the right to challenge any finding or determination supporting or related to the issue listed above and to challenge any other issues decided adversely to Pharmacosmos in the Board’s Final Written Decision and any orders, decisions, rulings, or opinions underlying the Final Written Decision.

Copies of this Notice of Cross-Appeal are being filed simultaneously with the Director, the Board, and the Clerk of the United States Court of Appeals for the Federal Circuit.

Respectfully Submitted
BAKER BOTTS L.L.P.

March 8, 2017
Date

/Lisa Kole/
Lisa Kole (Reg. No. 35,225)
Steven Lendaris (Reg. No. 53,202)
Paul Ragusa (Reg. No. 38,587)
Jennifer Tempesta (Reg. No. 59,021)
30 Rockefeller Plaza
New York, NY 10012-4498
212-408-2500
Attorneys for Petitioner
Pharmacosmos A/S

CERTIFICATE OF SERVICE AND FILING

The undersigned hereby certifies that, in addition to being filed electronically through the Patent Trial and Appeal Board's E2E filing system, the foregoing PETITIONER'S NOTICE OF CROSS-APPEAL was filed by Express Mail on March 8, 2017 with the Director of the United States Patent and Trademark Office, at each of the following addresses:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Office of the Solicitor
United States Patent and Trademark Office Mail Stop 8
Post Office Box 1450
Alexandria, Virginia 22313-1450

The undersigned hereby certifies that a true and correct copy of the foregoing PETITIONER'S NOTICE OF CROSS-APPEAL was filed on March 8, 2017 with the Clerk's Office of the United States Court of Appeals for the Federal Circuit at the following address, at the address below, and filed electronically with the Court through CM/ECF with payment of the required docketing fee:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Room 401
Washington, DC 20439

The undersigned certifies that the foregoing PETITIONER'S NOTICE OF CROSS-APPEAL was served on March 8, 2017 via e-mail to:

George E. Quillin
Foley & Lardner LLP
3000 K Street, N.W., Suite 600
Washington, D.C. 20007

GQuillin@foley.com

Michael D. Kaminski
Foley & Lardner LLP
3000 K Street, N.W., Suite 600
Washington, D.C. 20007
MKaminski@foley.com

BAKER BOTTS L.L.P.

March 8, 2017
Date

/Lisa Kole/
Jennifer Tempesta (Reg. No. 59,021)
Attorney for Petitioner
Pharmacosmos A/S