# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

FRESENIUS KABI USA LLC

Petitioner,

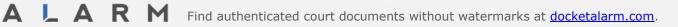
v.

## CUBIST PHARMACEUTICALS, INC.

Patent Owner.

Case: IPR2015-01570 Patent No. 8,058,238

## UPDATE TO PETITIONER'S MANDATORY NOTICES PURSUANT TO 37 C.F.R. § 42.8(a)(3)



DOCKET

Pursuant to 37 C.F.R. § 42.8(a)(3), Petitioner Fresenius Kabi USA LLC submits the following update to its Mandatory Notices:

## Related Matters (37 C.F.R. § 42.8(b)(2)): On November 12, 2015, the

Court of Appeals for the Federal Circuit affirmed the judgment of the United States

District Court for the District of Delaware finding the following claims invalid:

- claims 16, 17, 34, and 35 of U.S. Patent 6,468,967,
- claims 51 and 52 of U.S. Patent 6,852,689,
- claims 91, 98, and 187 of U.S. Patent 8,058,238, and
- claims 23 and 53 of U.S. Patent 8,129,342.

See Cubist Pharms., Inc. v. Hospira, Inc., Nos. 2015-1197, 2015-1204, and 2015-

1259, --- F.3d ---, 2015 WL 7005029, at \*13-\*17 (Fed. Cir. Nov. 12, 2015).

Respectfully submitted,

Dated: November 27, 2015

<u>/s/ Cynthia Lambert Hardman</u> Elizabeth J. Holland (Reg. No. 47,657) Robert V. Cerwinski Cynthia Lambert Hardman (Reg. No. 53,179) Goodwin Procter LLP 620 Eighth Avenue New York, NY 10018 Tel: 212-813-8800 Fax: 212-355-3333

Counsel for Petitioner Fresenius Kabi USA LLC

### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing UPDATE TO PETITIONER'S

MANDATORY NOTICE PURSUANT TO 37 C.F.R. § 42.8(a)(3) was served on

November 27, 2015 by causing it to be sent by email to counsel for Patent Owners

at the following email addresses:

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