

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AMNEAL PHARMACEUTICALS, LLC and PAR PHARMACEUTICAL, INC.  
Petitioners,

v.

JAZZ PHARMACEUTICAL, INC.,  
Patent Owner.

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Case IPR2015-01903  
Patent 8,731,963 B1

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**PATENT OWNER NOTICE OF APPEAL**

**NOTICE OF APPEAL**

Notice is hereby given, pursuant to 35 U.S.C. § 141 and 37 C.F.R. § 90.2, that Patent Owner Jazz Pharmaceuticals, Inc. (“Jazz”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board’s (the “Board”) Final Written Decision entered on March 22, 2017 (Paper 31), and from all orders, decisions, rulings, and opinions underlying those decisions regarding Jazz’s U.S. Patent No. 8,731,963 (the “’963 patent”) set forth in *inter partes* review IPR2015-01903.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner anticipates that the issues on appeal may include, but are not limited to, the following, as well as any underlying findings, determinations, rulings, decisions, opinions, claim interpretations, or other related issues:

- Whether the Board erred in finding that Petitioners met their burden in proving that the FDA Advisory Committee Transcript and Slides (Ex. 1003), FDA Preliminary Clinical Safety Review (Ex. 1004), Briefing Booklet (Ex. 1005), and Xyrem Video and Transcript (Ex. 1006) (collectively “the ACA Materials”) qualify as prior art;
- Whether the Board erred in its construction of the following claim term: “periodic reports”;

- Whether the Board erred in finding that Petitioners met their burden of proving that claims 24, 26, and 27 of the '963 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over the ACA Materials in view of Korfhage (Ex. 1037).

In accordance with 35 U.S.C. § 142 and 37 C.F.R. §§ 90.2 and 90.3, copies of this Notice of Appeal are being timely filed simultaneously with the Director of the United States Patent and Trademark Office and the Patent Trial and Appeal Board. In addition, a copy of this Notice of Appeal, along with the required docketing fees, are being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit via CM/ECF. A copy of this Notice of Appeal is also being served on Petitioners.

Date: May 18, 2017

Respectfully submitted,

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Patent Owner Notice of Appeal

Case IPR2015-01903

Patent 8,731,963

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**CERTIFICATE OF FILING**

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's Notice of Appeal was filed by Express Mail (Express Mail Label No. EL 332418732 US) on this 18th day of May 2017, with the Director of the United States Patent and Trademark Office, at the following address:

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, Virginia 22313-1450

**CERTIFICATE OF FILING**

I hereby certify that a true and correct copy of the foregoing Patent Owner's Notice of Appeal was filed with the Clerk's Office of the United States Court of Appeals for the Federal Circuit through the federal courts' Case Management and Electronic Case Files (CM/ECF) system on this 18<sup>th</sup> day of May 2017.

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