

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NEPTUNE GENERICS, LLC,
APOTEX INC., APOTEX CORP.,
and FRESENIUS KABI USA, LLC,

PETITIONERS,

V.

ELI LILLY & COMPANY,
PATENT OWNER.

Case IPR2016-00240¹
Patent 7,772,209

PETITIONERS' AMENDED JOINT NOTICE OF APPEAL

¹ IPR2016-01191, IPR2016-01337, and IPR2016-01343 were joined with this proceeding.

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

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Petitioners Neptune Generics, LLC, Apotex, Inc., Apotex Corp., and Fresenius Kabi USA, LLC (“Petitioners”) jointly appeal under 35 U.S.C. §§ 141 and 142 to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on October 5, 2017 (Paper No. 82 in IPR2016-00240²) (the “Final Written Decision”), and all underlying orders, decisions, rulings, and opinions. A copy of the Final Written Decision is attached.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Petitioners anticipate that the issues on appeal may include the following as well as any underlying findings, determinations, rulings, decisions, opinions, or other related issues:

- Whether the Board erred in finding that claims 1-22 of U.S. Patent 7,772,209 are patentable, and any findings or determinations

² The same decision was entered in IPR2016-01191 (Paper No. 13) and IPR2016-01343 (Paper No. 12). These IPRs were joined with IPR2016-00240 and terminated under 37 C.F.R. § 42.72 on October 4, 2016 (IPR2016-01191 at Paper No. 10) and October 6, 2016 (IPR2016-01343 at Paper No. 11) with an Order that “all further filings in the joined proceeding shall be made only in IPR2016-00240” (*see, e.g.*, IPR2016-01191, Paper No. 10 at 10).

supporting or related to that issue, including the weight the Board gave to Petitioners' evidence, as well as all other issues decided adversely to Petitioners in any orders, decisions, rulings, and opinions.

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

Dated: December 6, 2017

Respectfully Submitted,

/Sarah E. Spires/

Sarah E. Spires (61,501)
Dr. Parvathi Kota (65,122)
Paul Skiermont
SKIERMONT DERBY LLP
1601 Elm Street, Suite 4400
Dallas, TX 75201
237Neptune@skiermontderby.com
P: 214-978-6600/F: 214-978-6601

Mieke Malmberg
SKIERMONT DERBY LLP
800 Wilshire Blvd., Suite 1450
Los Angeles, CA 90017
237Neptune@skiermontderby.com
P: 213-788-4500/F: 213-788-4501

Counsel for Neptune Generics, LLC

/Cynthia Lambert Hardman/

Cynthia Lambert Hardman (53,179)
Michael B. Cottler
Goodwin Procter LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
mcottler@goodwinlaw.com
chardman@goodwinlaw.com

Counsel for Fresenius Kabi USA, LLC

/Patrick C. Kilgore/

John D. Polivick (57,926)
Deanne M. Mazzochi (50,158)
Patrick C. Kilgore (69,131)
Rakoczy Molino
Mazzochi Siwik LLP
6 West Hubbard Street, Suite 500
Chicago, Illinois 60654
jpolivick@rmmslegal.com
dmazzochi@rmmslegal.com
pkilgore@rmmslegal.com

*Counsel for Apotex Inc. and
Apotex Corp.*

CERTIFICATE OF FILING

I hereby certify that a true and correct copy of the foregoing “Petitioners’ Amended Joint Notice of Appeal,” was filed electronically through the Patent Trial and Appeal Board’s E2E on this 6th day of December, 2017.

CERTIFICATE OF FILING

I hereby certify that a true and correct copy of the foregoing “Petitioners’ Amended Joint Notice of Appeal,” was filed electronically by CM/ECF on this 6th day of December, 2017, with the United States Court of Appeals for the Federal Circuit.

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