

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FLATWING PHARMACEUTICALS, LLC and  
MYLAN PHARMACEUTICALS INC.,  
Petitioners,

v.

ANACOR PHARMACEUTICALS, INC.,  
Patent Owner.

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Case No. IPR2018-00169<sup>1</sup>  
U.S. Patent No. 9,566,289

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**PATENT OWNER'S NOTICE OF APPEAL**

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<sup>1</sup> Case No. IPR2018-01359 has been joined with this proceeding.

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Patent Owner Anacor Pharmaceuticals, Inc. (“Anacor”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision (Paper 35) entered on June 5, 2019, as it relates to the claims of U.S. Patent No. 9,566,289 (“the ’289 patent”) and any finding or determination supporting or relating to that decision. A copy of the Final Written Decision is attached hereto as Exhibit A.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Anacor indicates that the issues on appeal include, but are not limited to, the Board’s determinations that claims 1 and 2 are unpatentable as obvious over WO 95/33754 (“Austin”) and US 2002/0165121 (“Brehove”); that claims 4–7, 10, and 11 are unpatentable as obvious over Austin, Brehove, and U.S. Patent No. 6,224,887 (“Samour”); and that claims 3, 8, 9, and 12–15 are unpatentable as obvious over Austin, Brehove, Samour, and the *Handbook of Pharmaceutical Excipients* (3d ed. 2000).

Pursuant to 37 C.F.R. § 90.2(a), with this submission: (1) a copy of this Notice of Appeal is being filed electronically with the Patent Trial and Appeal Board in accordance with 37 C.F.R. § 42.6(b); (2) a paper copy of this Notice of Appeal, an electronic copy of this Notice of Appeal via the CM/ECF, and the docketing fee of \$500 are being filed simultaneously with the United States Court of Appeals for the Federal Circuit; (3) this Notice of Appeal is being filed by hand with the United States Patent and Trademark Office as provided in 37 C.F.R.

§ 104.2; and (4) a copy of this Notice of Appeal is being served on Petitioners  
FlatWing Pharmaceuticals, LLC and Mylan Pharmaceuticals Inc.

Date: August 6, 2019

Respectfully submitted,

/s/ Aaron P. Maurer

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**CERTIFICATE OF FILING**

The undersigned hereby certifies that on August 6, 2019, the foregoing was electronically filed through PTAB E2E and, pursuant, to 37 C.F.R. § 104.2 is being filed by hand delivery 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  
Madison Building East, 10B20  
600 Dulany Street  
Alexandria, VA 22314

The undersigned also hereby certifies that on August 6, 2019, a true and correct paper copy of the foregoing, a true and correct electronic copy of the foregoing, and the docketing fee of \$500 are being filed by hand, CM/ECF, and Pay.gov, respectively, with the United States Court of Appeals for the Federal Circuit.

*/Anthony H. Sheh/*

Anthony H. Sheh

Reg. No. 70,576

**CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))**

The undersigned hereby certifies that a true and correct copy of the foregoing was served on August 6, 2019, by delivering a copy via electronic mail on the following counsel of record for Petitioners:

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