

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMNEAL PHARMACEUTICALS LLC,
AMNEAL PHARMACEUTICALS OF NEW YORK, LLC, and MYLAN
PHARMACEUTICALS INC.,
Petitioners

v.

ALMIRALL, LLC,
Patent Owner

Case IPR2019-00207¹
Patent 9,517,219

NOTICE OF APPEAL OF PATENT OWNER ALMIRALL, LLC

¹ Cases IPR2019-00207 and IPR2019-01095 have been joined in this proceeding.

IPR2019-00207

Notice of Appeal of Patent Owner Almirall, LLC

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

Pursuant to 35 U.S.C. §§ 141(c), 142, and 319 and 37 C.F.R. §§ 90.2(a) and 90.3(b)(1), Patent Owner Almirall, LLC (“Almirall”) hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on May 29, 2020 (Paper 58, attached hereto as Appendix A) in IPR2019-00207 before the Patent Trial and Appeal Board regarding the *inter partes* review of U.S. Patent No. 9,517,219 (“the ’219 patent”), and from all underlying findings, determinations, orders, decisions, rulings, and opinions, including Almirall’s Request for Rehearing (Paper 61), which was denied on July 23, 2020 (Paper 62). The present notice of appeal is being filed in the USPTO within the sixty-three days prescribed under 37 C.F.R. § 90.3(b)(1) and is therefore timely under 35 U.S.C. § 142.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Almirall states that the issues on appeal include, but are not limited to:

1. Whether the Board erred in finding that claims 1–8 of the ’219 patent are unpatentable under 35 U.S.C. § 103(a) over the combination of two references: (1) WO 2009/061298 A1, published May 14, 2009 (Ex. 1004, “Garrett”); and (2) WO 2010/072958 A2, published July 1, 2010

- (Ex. 1005, “Nadau-Fourcade”);
2. Whether the Board erred in finding that claims 1–8 of the ’219 patent are unpatentable under 35 U.S.C. § 103(a) over the combination of two references: (1) Garrett; and (2) Giulia Bonacucina et al., *Characterization and Stability of Emulsion Gels Based on Acrylamide/Sodium Acryloyldimethyl Taurate Copolymer*, 10(2) AAPS PHARMSciTECH 368–75 (2009) (Ex. 1015, “Bonacucina”);
 3. Whether the Board erred in any finding relating to the aforementioned claims and grounds, including the scope and content of the prior art; and
 4. Whether the Board erred in any other issues decided adversely to Almirall in any order, decision, ruling or opinion.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a), this Notice of Appeal is being filed with the Director of the United States Patent and Trademark Office, and a copy of this Notice of Appeal is being concurrently filed with the Patent Trial and Appeal Board. In addition, this Notice of Appeal, is being filed with the Clerk’s Office for the United States Court of Appeals for the Federal Circuit via CM/ECF, and the required filing fee paid.

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Notice of Appeal of Patent Owner Almirall, LLC

Trial and Appeal Board. In addition, this Notice of Appeal, is being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit via CM/ECF, and the required filing fee paid.

Dated: September 24, 2020

Respectfully submitted,

FENWICK & WEST LLP

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Notice of Appeal of Patent Owner Almirall, LLC

CERTIFICATE OF SERVICE

I, James S. Trainor, hereby certify that on September 24, 2020, I caused a true and correct copy of the foregoing **NOTICE OF APPEAL OF PATENT OWNER ALMIRALL, LLC**, in addition to being filed electronically through the Patent Trial and Appeal Board's E2E, to be filed by Priority Mail Express® 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, 10B20
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

I also hereby certify that on September 24, 2020, I caused a true and correct copy of the foregoing **NOTICE OF APPEAL OF PATENT OWNER ALMIRALL, LLC** to be filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, and the filing fee paid electronically.

I also hereby certify that on September 24, 2020, I caused a true and correct copy of the foregoing **NOTICE OF APPEAL OF PATENT OWNER ALMIRALL, LLC** to be served on the following parties by electronic mail:

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