

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MODERNA THERAPEUTICS, INC.
Petitioner

v.

ARBUTUS BIOPHARMA CORPORATION,
Patent Owner

Case IPR2019-00554
Patent 8,058,069

**PETITIONER'S NOTICE OF APPEAL
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Petitioner Moderna Therapeutics, Inc. ("Petitioner") hereby appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board's Final Written Decision (Paper No. 40) in Case No. IPR2019-00554 entered July 23, 2020, and from all underlying orders, decisions, rulings, and opinions which adversely affected Petitioner.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Petitioner further indicates that the issues on appeal include, but are not limited to, the Board's determination that Petitioner did not demonstrate by a preponderance of the evidence that claims 1-22 of Patent No. 8,058,069 (the "'069 patent") under 35 U.S.C. § 103; the Board's application of its interpretation of the claims of the '069 patent to the facts of record; the Board's consideration of record evidence, including but not limited to, expert testimony; and all findings or determinations supporting or relating to those issues, as well as any other issues decided adversely to Petitioner in any orders, decisions, rulings, and opinions.

Pursuant to 37 C.F.R. § 90.2(a)(1) and (a)(2), and as reflected in the attached Certificate of Service, this Notice of Appeal is being electronically filed with the Board through PRPS and the United States Court of Appeals for the Federal Circuit through CM/ECF along with the requisite filing fee. A

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copy is also being served on the Office of the General Counsel at the U.S.

Patent and Trademark Office.

Dated: September 23, 2020

Respectfully submitted,

/s/ C. Maclain Wells
Michael R. Fleming, Reg. No. 67,933
C. Maclain Wells (Reg. No. 48,991)
IRELL & MANELLA LLP
Telephone: (310) 277-1010
Attorneys for Petitioner

CERTIFICATE OF FILING AND SERVICE

The undersigned certifies in accordance with 37 C.F.R. § 42.6(e) that on September 23, 2020, a copy of the foregoing PETITIONER'S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT was served via email upon the following by email:

WILSON SONSINI GOODRICH & ROSATI

Michael T. Rosato, Reg. No. 52,182
mrosato@wsgr.com

Steven W. Parmelee, Reg. No. 31,990
sparmelee@wsgr.com

Sonja R. Gerrard, Reg. No. 72,802
sgerrard@wsgr.com

Lora M. Green, Reg. No. 43,541
lgreen@wsgr.com

I also certify that in addition to being filed electronically with the Board through PRPS, the original of the foregoing Notice of Appeal is being served, pursuant to 37 C.F.R. § 104.2, by hand on September 23, 2020 to the United States Patent and Trademark Office at the following address: Office of the General Counsel, 10B20, Madison Building East, 600 Dulany Street, Alexandria, Virginia.

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I further certify that a copy of the foregoing Notice of Appeal is being filed via CM/ECF on September 23, 2020 with the United States Court of Appeals for the Federal Circuit.

Dated: September 23, 2020

By: /Susan M. Langworthy/
Susan M. Langworthy

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