

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MYLAN PHARMACEUTICALS INC., DR. REDDY'S LABORATORIES, INC.,  
DR. REDDY'S LABORATORIES, LTD., and SUN PHARMACEUTICALS  
INDUSTRIES LTD.,  
Petitioners,

v.

MERCK SHARP & DOHME CORP.,  
Patent Owner.

Case IPR2020-00040<sup>1</sup>  
Patent 7,326,708 B2

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**PETITIONER SUN PHARMACEUTICAL INDUSTRIES LTD.'S NOTICE  
OF APPEAL**

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<sup>1</sup> Dr. Reddy's Laboratories, Inc. and Dr. Reddy's Laboratories, Ltd. were joined as a party to this proceeding via a Motion for Joinder in IPR2020-01060; and Sun Pharmaceuticals Industries Ltd. was joined as a party to this proceeding via Motion for Joinder in IPR2020-01072.

Pursuant to 28 U.S.C. § 1295(a)(4)(A), 5 U.S.C. §§ 701-706, 35 U.S.C. §§ 319, 141, 142, and in accordance with 37 C.F.R. §§ 90.2, 90.3, and Federal Circuit Rule 15(a)(1), Petitioner Sun Pharmaceuticals Industries Ltd. hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board in Case No. IPR2020-00040, entered on May 7, 2021 (Paper No. 91), and from all underlying orders, decisions, rulings, and opinions related thereto and included therein. Petitioner Mylan Pharmaceuticals Inc. has already noticed its appeal of the Board's Final Written Decision. (Paper 92). This appeal is timely under 35 U.S.C. § 142 and Rule 15(a)(1) of the Federal Rules of Appellate Procedure.

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

1. The Board's determination that Petitioner failed to show that claims 1-3, 17, 19, and 21-23 of U.S. Patent No. 7,326,708 B2 ("the '708 Patent") are unpatentable as anticipated over the prior art.
2. The Board's determination that Petitioner failed to show that claims 1-4, 17, 19, and 21-23 of the '708 Patent are unpatentable as obvious over the prior art.
3. The Board's determination that the Patent Owner had reduced to practice the subject matter of claims 1, 2, 17, 19, and 21-23 of the '708

Patent before the applicable priority and/or publication date of WO 03/004498 A1, and whether WO 03/004498 A1 is available prior art to claims 1, 2, 17, 19, and 21–23 of the '708 Patent.

4. All other issues decided adversely to Petitioner in any orders, decisions, rulings, and opinions underlying or supporting the Final Written Decision.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a), a copy of this Notice is being filed with the Director of the United States Patent and Trademark Office and with the Patent Trial and Appeal Board. In addition, a copy of this Notice and 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.

Dated: July 8, 2021

Respectfully submitted,

/Jovial Wong/  
Jovial Wong  
Reg. No. 60,115

*Lead Counsel for Petitioner*

## CERTIFICATE OF FILING

The undersigned hereby certifies that the above-captioned PETITIONER'S NOTICE OF APPEAL was electronically filed through PTAB E2E and via Priority Mail Express with the Director on July 8, 2021, 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, VA 22313-1450

The undersigned also hereby certifies that a true and correct paper copy of the above-captioned PETITIONER'S NOTICE OF APPEAL, and the docketing fee of \$500 are being filed via Priority Mail Express, CM/ECF, and Pay.gov, respectively, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit on July 8, 2021.

Dated: July 8, 2021

Respectfully submitted,

/Jovial Wong/

Jovial Wong

Reg. No. 60,115

*Lead Counsel for Petitioner*

## CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(a), I certify that, on July 8, 2021, a true and correct copy of the foregoing PETITIONER SUN PHARMACEUTICALS INDUSTRIES LTD.'S NOTICE OF APPEAL, was served electronically on counsel of record for the Patent Owner and other petitioners at the following electronic-mail addresses:

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