

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Mylan Laboratories Ltd.  
Petitioner,

v.

Janssen Pharmaceutica NV  
Patent Owner.

U.S. Patent No. 9,439,906 to Vermeulen et al.  
Issue Date: September 13, 2016  
Title: Dosing Regimen Associated with Long  
Acting Injectable Paliperidone Esters

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*Inter Partes* Review No.: IPR2020-00440

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**PETITIONER'S NOTICE OF APPEAL**

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

Pursuant to 28 U.S.C. § 1295(a)(4)(A), 5 U.S.C. §§ 701-706, 35 U.S.C. §§ 141(c), 142, and 319, and 28 U.S.C. § 1651, and in accordance with 37 C.F.R. §§ 90.2(a), 90.3, and Federal Circuit Rule 15(a)(1), Petitioner Mylan Laboratories Ltd. (“Petitioner”) provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Decision Denying Institution of Inter Partes Review of the Patent Trial and Appeal Board (“Board”) entered September 16, 2020 (Paper 17).

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) that the Board’s determination to deny institution under 35 U.S.C. § 314(a) of the *inter partes* review of claims 1-21 of U.S. Patent No. 9,439,906, based on the timing of a separate district-court litigation to which Petitioner is not a party, undermines Petitioner’s constitutional and other due process rights; and (2) the Board’s continued adoption and application of non-statutory institution standards through *ad hoc* proceedings lie in contrast to congressional intent.

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.

Respectfully submitted,

Katten Muchin Rosenman LLP

Date: October 20, 2020

/ Jitendra Malik /  
Jitendra Malik, Ph.D. (Reg. No. 55823)  
*Lead Counsel for Petitioner*

**CERTIFICATION OF SERVICE ON PATENT OWNER**

Pursuant to 37 C.F.R. §§ 42.6, the undersigned certifies that on October 20, 2020, a complete copy of the foregoing Notice of Appeal was served electronically on counsel of record for the Patent owner at the following electronic-mail addresses:

JANS-INVEGAIPR@akingump.com

rmunoz@akingump.com

JanssenInvegaIPR@pbwt.com

bmullin@pbwt.com

jcho@pbwt.com

acohen@pbwt.com

Respectfully submitted,

Katten Muchin Rosenman LLP

By: / Jitendra Malik /  
Jitendra Malik, Ph.D.  
Reg. No. 55,823

In accordance with 37 C.F.R. §§ 90.2(a)(1) and 104.2(b), I hereby certify that, in addition to being filed electronically through the Board's E2E System, the original version of the foregoing Notice of Appeal was filed by hand on October 20, 2020, 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  
Madison Building East, Room 10B20  
600 Dulany Street  
Alexandria, VA 22314

In accordance with 37 C.F.R. § 90.2(a)(2), I hereby certify that on October 20, 2020, a true and correct copy of the foregoing Notice of Appeal was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Katten Muchin Rosenman LLP

Date: October 20, 2020

/ Jitendra Malik /  
Jitendra Malik, Ph.D. (Reg. No. 55823)  
*Lead Counsel for Petitioner*

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