

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

LIQUIDIA TECHNOLOGIES, INC.,

Petitioner

v.

UNITED THERAPEUTICS CORPORATION,

Patent Owner

---

*Inter Partes* Review No. IPR2020-00770

U.S. Patent No. 9,604,901

---

**PETITIONER'S NOTICE OF CROSS-APPEAL**

## NOTICE OF APPEAL TO THE FEDERAL CIRCUIT

Pursuant to 35 U.S.C. §§ 141, 143, and 319, and 37 C.F.R. § 1.983, Petitioner, Liquidia Technologies, Inc., hereby cross-appeals to the United States Court of Appeals for the Federal Circuit from the Order entered by the Patent Trial and Appeal Board (“Board”) on October 8, 2021 (Paper 45), the Decision on Request for Rehearing entered on June 14, 2022 (Paper 49), and from all orders, decisions, rulings, and opinions related thereto. Patent Owner filed an initial notice of appeal on August 15, 2022. This cross-appeal is timely under 37 C.F.R. § 90.3(a) and Rule 4(a)(3) of the Federal Rules of Appellate Procedure.

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

1. Whether the Board erred in construing “storing/storage” as recited in U.S. Patent No. 9,604,901 as “storing or storage for a period of at least three months,” particularly when that construction was not offered by either party.
2. Whether the Board erred in concluding that claims 6 and 7 of the U.S. Patent No. 9,604,901 were not invalid as obvious over either the combination of prior art Moriarty<sup>1</sup> and Phares<sup>2</sup>, or Phares alone.

---

<sup>1</sup> Moriarty et al., The Intramolecular Asymmetric Pauson-Khand Cyclization as a Novel and General Stereoselective Route to Benzindene Prostacyclins: Synthesis of UT-15 (Treprostinil), 69 J. ORG. CHEM. 1890–1902 (2004) (Ex. 1009).

<sup>2</sup> PCT Application No. WO 2005/007081 A9, published Jan. 27, 2005.

A copy of this Notice of Cross-Appeal is being filed simultaneously with the Board and the Clerk's Office for the United States Court of Appeals for the Federal Circuit along with the required docketing fee.

Dated: August 29, 2022

COOLEY LLP  
ATTN: Patent Group  
1299 Pennsylvania Ave., NW, Suite 700  
Washington, DC 20004  
Tel: (212) 479-6840  
Fax: (212) 479-6275

Respectfully submitted,

**COOLEY LLP**

By: /Ivor Elrifi/  
Ivor Elrifi  
Reg. No. 39,529  
*Counsel for Petitioner*

*Back-Up Counsel:*

Sanya Sukduang (Reg. No. 46,390)  
ssukduang@cooley.com

Erik B. Milch (Reg. No. 42,887)  
emilch@cooley.com

Deepa Kannappan (*pro hac vice*)  
dkannappan@cooley.com

**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. §§ 90.2(a)(1) and 104.2(a), the undersigned hereby certifies that, in addition to being filed electronically through the Patent Trial and Appeal Board's E2E system, the foregoing **PETITIONER'S NOTICE OF CROSS-APPEAL** was filed on this 29th day of August 2022, the same day as the filing of the above-identified documents in the United States Patent and Trademark Office (USPTO), 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  
United States Patent and Trademark Office  
Madison East, 10B20, 600 Dulany Street  
Alexandria, Virginia 22314

**CERTIFICATE OF SERVICE (Fee)**

Pursuant to 37 C.F.R. §§ 90.2(a) and Federal Circuit Rule 15(a)(1), the undersigned hereby certifies that on this 29th day of August 2022, the requisite fee for appeal of the foregoing **PETITIONER'S NOTICE OF CROSS-APPEAL** was filed by CM/ECF in the United States Court of Appeals for the Federal Circuit.

**CERTIFICATE OF SERVICE**

I hereby certify, pursuant to 37 C.F.R. §§ 42.6 and 42.105, that a complete copy of the attached **PETITIONER'S NOTICE OF CROSS-APPEAL** is being

served via electronic mail on the 29th day of August 2022, the same day as the filing of the above-identified document in the United States Patent and Trademark Office Patent Trial and Appeal Board, upon the Patent Owner at the following addresses:

smaebius@foley.com  
jmock@foley.com  
gquillin@foley.com  
ssnader@unither.com  
dcarsten@mwe.com  
rtorczon@wsgr.com  
aweisbruch@mwe.com  
jmohr@mwe.com  
UTC-901@foley.com

Dated: August 29, 2022

Cooley LLP  
ATTN: Patent Docketing  
1299 Pennsylvania Ave. NW,  
Suite 700  
Washington, D.C. 20004  
Tel: (212) 479-6840  
Fax: (212) 479-6275

By: Ivor Elrifi  
Ivor Elrifi  
Reg. No. 39,529  
*Counsel for Petitioner*

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.