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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC., CELLTRION, INC., and
APOTEX, INC.,
Petitioners,

v.

REGENERON PHARMACEUTICALS, INC.,
Patent Owner.

Case IPR2021-00881¹
Patent No. 9,254,338 B2

PATENT OWNER'S NOTICE OF APPEAL

¹ IPR2022-00258 and IPR2022-00298 have been joined with this proceeding.

By Electronic Filing

Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By Hand Delivery

Office of the General Counsel
U.S. Patent & Trademark Office
Madison Building East, 10B20
600 Dulany Street
Alexandria, VA 22314-5793

By Electronic Filing

Circuit Executive and Clerk of Court
United States Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, DC 20439

Pursuant to 35 U.S.C. §§ 141(c), 142 and 319 and 37 C.F.R. §§ 90.2(a), 90.3(a), Regeneron Pharmaceuticals, Inc. (“Patent Owner”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board’s (“Board”) Final Written Decision entered on November 9, 2022 (Paper No. 94) (“Final Written Decision”), and from all underlying findings, determinations, rulings, opinions, orders, issues, and decisions regarding the *inter partes* review of U.S. Patent No. 9,254,338 (“the ’338 Patent”). A copy of the Final Written Decision is attached as Exhibit 1.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner identifies that the issues on appeal include, but are not limited to: (1) whether the Board erred in determining that Mylan Pharmaceuticals Inc., Celltrion, Inc., and Apotex, Inc.

(“Petitioners”) have shown by a preponderance of the evidence that claims 1, 3-11, 13, 14, 16-24, and 26 of the ’338 Patent are unpatentable over Dixon; (2) whether the Board violated the Administrative Procedure Act by taking judicial notice of evidence that was not of record while ignoring evidence of record; (3) whether the Board erred in denying-in-part and dismissing-in-part Patent Owner’s motions to exclude; and (4) any Board finding, determination, judgment or order related to the foregoing issues, as well as all other issues decided adversely to Patent Owner, including, without limitation, the Board’s construction and application of the claim language, the Board’s interpretation of the prior art, the Board’s interpretation of expert evidence, and the Board’s application of the law.

The Board issued its Final Written Decision on November 9, 2022. This notice is therefore timely filed within sixty-three (63) days of the Board’s decision as prescribed by 35 U.S.C. § 142 and 37 C.F.R. § 90.3(a)(1).

Patent Owner is concurrently filing this Notice of Appeal with the Director of the United States Patent and Trademark Office and the Clerk of the United States Court of Appeals for the Federal Circuit, along with the required fees.

Patent Owner does not believe that any fees are due to the United States Patent and Trademark Office with this Notice of Appeal. However, if any such fees are due, the Director is authorized to charge the fees to Deposit Account No. 50-2387.

Dated: January 10, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that the original of this **PATENT OWNER'S NOTICE OF APPEAL** was filed via hand delivery on January 10, 2023 with the Director of the United States Patent and Trademark Office at the address below:

Office of the General Counsel
U.S. Patent & Trademark Office
Madison Building East, 10B20
600 Dulany Street
Alexandria, Virginia 22314-5793

A copy of this Notice of Appeal is being filed and served on January 10, 2023 as follows:

USPTO Patent Trial and Appeal Board:

Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

(via PTAB P-TACTS)

U.S. Court of Appeals for the Federal Circuit:

Clerk of Court
U.S. Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

(via CM/ECF with filing fee)

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