

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

NEPTUNE GENERICS, LLC,  
APOTEX INC., APOTEX CORP.,  
and FRESENIUS KABI USA, LLC,

PETITIONERS,

V.

ELI LILLY & COMPANY,

PATENT OWNER.

---

Case IPR2016-00237<sup>1</sup>  
Patent 7,772,209

---

**PETITIONERS' AMENDED JOINT NOTICE OF APPEAL**

---

<sup>1</sup> IPR2016-01190, IPR2016-01335, and IPR2016-01341 were joined with this proceeding.

Office of the General Counsel  
Patent and Trademark Office  
Madison East  
10B20 600 Dulany Street  
Alexandria, VA 22314

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Petitioners Neptune Generics, LLC, Apotex, Inc., Apotex Corp., and Fresenius Kabi USA, LLC (“Petitioners”) jointly appeal under 35 U.S.C. §§ 139, 141 and 142 to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on October 5, 2017 (Paper No. 84 in IPR2016-00237<sup>2</sup>) (the “Final Written Decision”), and all underlying orders, decisions, rulings, and opinions. A copy of the Final Written Decision is attached.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Petitioners anticipate that the issues on appeal may include the following as well as any underlying findings, determinations, rulings, decisions, opinions, or other related issues:

- Whether the Board erred in finding that claims 1-22 of U.S. Patent 7,772,209 are patentable, and any findings or determinations

---

<sup>2</sup> The same decision was entered in IPR2016-01190 (Paper No. 10) and IPR2016-01341 (Paper No. 13). These IPRs were joined with IPR2016-00237 and terminated under 37 C.F.R. § 42.72 on September 30, 2016 (IPR2016-01190 at Paper No. 10) and October 6, 2016 (IPR2016-01341 at Paper No. 10) with an Order that “all further filings in the joined proceeding shall be made only in IPR2016-00237” (*see, e.g.*, IPR2016-01190, Paper No. 10 at 10).

supporting or related to that issue, including the weight the Board gave to Petitioners' evidence, as well as all other issues decided adversely to Petitioners in any orders, decisions, rulings, and opinions.

Copies of this Amended Notice of Appeal are being filed simultaneously with the Director, the Patent Trial and Appeal Board, and the Clerk of the United States Court of Appeals for the Federal Circuit.

Dated: December 6, 2017

Respectfully Submitted,

/Sarah E. Spires/

Sarah E. Spires (61,501)  
Dr. Parvathi Kota (65,122)  
Paul Skiermont  
SKIERMONT DERBY LLP  
1601 Elm Street, Suite 4400  
Dallas, TX 75201  
237Neptune@skiermontderby.com  
P: 214-978-6600/F: 214-978-6601

Mieke Malmberg  
SKIERMONT DERBY LLP  
800 Wilshire Blvd., Suite 1450  
Los Angeles, CA 90017  
237Neptune@skiermontderby.com  
P: 213-788-4500/F: 213-788-4501

*Counsel for Neptune Generics, LLC*

/Cynthia Lambert Hardman/

Cynthia Lambert Hardman (53,179)  
Michael B. Cottler  
Goodwin Procter LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018-1405  
mcottler@goodwinlaw.com  
chardman@goodwinlaw.com

*Counsel for Fresenius Kabi USA, LLC*

/Patrick C. Kilgore/

John D. Polivick (57,926)  
Deanne M. Mazzochi (50,158)  
Patrick C. Kilgore (69,131)  
Rakoczy Molino  
Mazzochi Siwik LLP  
6 West Hubbard Street, Suite 500  
Chicago, Illinois 60654  
jpolivick@rmmslegal.com  
dmazzochi@rmmslegal.com  
pkilgore@rmmslegal.com

*Counsel for Apotex Inc. and  
Apotex Corp.*

**CERTIFICATE OF FILING**

I hereby certify that a true and correct copy of the foregoing “Petitioners’ Amended Joint Notice of Appeal,” was filed electronically through the Patent Trial and Appeal Board’s E2E on this 6<sup>th</sup> day of December, 2017.

**CERTIFICATE OF FILING**

I hereby certify that a true and correct copy of the foregoing “Petitioners’ Amended Joint Notice of Appeal,” was filed electronically by CM/ECF on this 6<sup>th</sup> day of December, 2017, with the United States Court of Appeals for the Federal Circuit.

# 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.