

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NOF CORPORATION,
Petitioner,

v.

NEKTAR THERAPEUTICS,
Patent Owner.

Case IPR2019-01398
Patent 8,273,833

PATENT OWNER'S NOTICE OF APPEAL

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, Virginia 22313-1450

Pursuant to 28 U.S.C. § 1295(a)(4)(A), 35 U.S.C. §§ 141, 142, and 319, and 37 C.F.R. §§ 90.2 and 90.3, Patent Owner Nektar Therapeutics (“Patent Owner”) 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 (“Board”) in Case No. IPR2019-01398, entered on July 30, 2021 (Paper 64) and from all underlying findings, orders, decisions, rulings, and opinions. This appeal is timely under 35 U.S.C. § 142 and 37 C.F.R. § 90.3(a)(1).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner states that the issues for appeal include, but are not limited to: whether the Final Written Decision should be vacated because the timing of the Final Written Decision did not permit an opportunity for the Director to review and issue a “final determination” within the time frame required by 35 U.S.C. § 316(a)(11); and whether the Board erred in determining that claims 1-10 of U.S. Patent No. 8,273,833 are unpatentable as obvious, including whether the Board should have applied the lead compound analysis and whether the Board appropriately applied the law relating to so-called overlapping ranges; the Board’s consideration and analysis of the expert testimony, prior art, and other evidence in the record; the Board’s factual findings, conclusions of law, or other determinations supporting or relating to the above issues; and the constitutionality of the present proceeding.

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

Simultaneous with this submission, a copy of this Notice is being filed with the Patent Trial and Appeal Board. In addition, a copy of this Notice, along with the required docketing fees, is being filed with the Clerk's office of the United States Court of Appeals for the Federal Circuit via CM/ECF.

Date: September 30, 2021

Respectfully Submitted,

By: / Edgar H. Haug /
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Lead Counsel for Patent Owner

Certificate of Service

The undersigned certifies that, in addition to being filed electronically through the Patent Trial and Appeal Board's E2E system, the foregoing Notice of Appeal was filed by Priority Mail Express on September 30, 2021 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, United States Patent and Trademark Office, P.O. Box 1450 Alexandria, VA 22313-1450. The undersigned certifies that a copy of the foregoing Notice of Appeal, along with the required docket fee, was filed on the below date, with the Clerk's Office for the United States Court of Appeals for the Federal Circuit through the Court's CM/ECF filing system. The undersigned certifies service pursuant to 37 C.F.R. § 42.6(e) of a copy of this Notice of Appeal by electronic mail on the below date, on the counsel of record for Petitioners: **tdonovan@btlaw.com, mhagedorn@btlaw.com, vliptak@btlaw.com, kforgue@btlaw.com**. Petitioner previously consented to service by email at those addresses. (Paper 29 at 1-2).

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