

Filed on behalf of: Amgen Inc. and Amgen Manufacturing Limited

Entered: December 17, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APOTEX INC. and APOTEX CORP.,  
Petitioners,

v.

AMGEN INC. and AMGEN MANUFACTURING LIMITED,  
Patent Owners.

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Case IPR2016-01542  
Patent 8,952,138

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**PATENT OWNERS' AMENDED NOTICE OF APPEAL**

Pursuant to 37 C.F.R. § 90.2(a), notice is hereby given that Patent Owners Amgen Inc. and Amgen Manufacturing Limited (“Amgen” or “Patent Owners”) appeal to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“PTAB”) in Case No. IPR2016-01542 entered on February 15, 2018 (Paper No. 60), attached as Exhibit 1; from the Decision Denying Petitioner’s Request for Rehearing and Amending Prior Decision of the PTAB entered on May 20, 2019 (Paper No. 67), attached as Exhibit 2; from the Order denying Director review entered on November 22, 2021 (Paper No. 77), attached as Exhibit 3; and from all underlying orders, decisions, determinations, rulings, and opinions. The Final Written Decision (Paper No. 60) and the Decision Denying Petitioner’s Request for Rehearing and Amending Prior Decision of the PTAB (Paper No. 67) were the subject of the original Notice of Appeal filed on July 22, 2019 (No. 19-2171).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owners state that the issues on appeal include, but are not limited to: (1) the PTAB’s construction of the term “final thiol-pair ratio” in Claim 1 of U.S. Patent No. 8,952,138 (“’138 Patent”); (2) the PTAB’s determination that Petitioners have shown by a preponderance of the evidence that Claims 1-17 and 19-24 of the ’138 Patent are invalid as obvious under 35 U.S.C. § 103 over Schlegl (EX1003) and Hevehan (EX1004); (3) whether the PTAB’s *sua sponte* amendment of its Final Written Decision (in its Decision Denying Petitioner’s Request for Rehearing

and Amending Prior Decision (Paper No. 67)) violated the Administrative Procedure Act or was otherwise unlawful; (4) the PTAB's determination in its Decision Denying Petitioner's Request for Rehearing and Amending Prior Decision (Paper No. 67) that Petitioners have shown by a preponderance of the evidence that Claim 18 of the '138 Patent is invalid as obvious under 35 U.S.C. § 103 over Schlegl (EX1003) and Hevehan (EX1004); and (5) any explicit or implicit finding or determination supporting or relating to those issues, as well as all other issues decided adversely to Patent Owners in any orders, decisions, determinations, rulings, or opinions.

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, and a copy of this Notice is being concurrently filed with the PTAB. In addition, a copy of this Amended Notice of Appeal is being filed with the Clerk of Court for the United States Court of Appeals for the Federal Circuit in No. 19-2171.

Respectfully submitted,

Dated: December 17, 2021

By: / Arlene L. Chow /

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**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to 37 C.F.R. § 90.2(a)(1), on this 17th day of December 2021, I electronically filed the foregoing **PATENT OWNERS' AMENDED NOTICE OF APPEAL** with the Patent Trial and Appeal Board via E2E, in accordance with 37 C.F.R. § 42.6(b)(1).

I also hereby certify that a true and correct paper copy of the foregoing **PATENT OWNERS' AMENDED NOTICE OF APPEAL** is being filed by hand 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, 10B20  
600 Dulany Street  
Alexandria, VA 22314-5793

I also hereby certify that, pursuant to Federal Circuit Rule 52(a)(2), on the 17th day of December 2021, a true and correct copy of the foregoing **PATENT OWNERS' AMENDED NOTICE OF APPEAL** was filed with the Clerk's Office of the U.S. Court of Appeals for the Federal Circuit via CM/ECF in No. 19-2171.

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 17th day of December 2021, a true and correct copy of the foregoing **PATENT OWNERS' AMENDED NOTICE OF APPEAL** was served by electronic mail on Petitioners lead and backup counsel at the following email addresses:

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