

Date filed: April 20, 2015

Filed on Behalf of: Genzyme Therapeutic
Products Limited Partnership

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BIOMARIN PHARMACEUTICAL, INC.

Petitioner

v.

GENZYME THERAPEUTIC PRODUCTS

LIMITED PARTNERSHIP

Patent Owner

Case IPR2013-00537
Patent 7,655,226

PATENT OWNER GENZYME'S NOTICE OF APPEAL

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
P.O. Box 1450
Alexandria, VA 22312-1450

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a) and 35 U.S.C. § 142, that Patent Owner Genzyme Therapeutic Products Limited Partnership (“Genzyme”) 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 IPR2013-00537 entered on February 23, 2015 (Paper 79) (“Final Written Decision”), and from all underlying orders, decisions, rulings and opinions, including without limitation the Decision Instituting *Inter Partes* Review entered on February 24, 2014 (Paper 9) (“Institution Decision”) and Order granting Petitioner BioMarin Pharmaceutical, Inc.’s Motion to Submit Supplemental Information entered on January 7, 2015 (Paper 79).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Genzyme indicates that the issues on appeal include, but are not limited to: the Board’s failure to observe procedure required by law, including, but not limited to, 5 U.S.C. §§ 554, 556, and 557, 35 U.S.C. §§ 2, 314 and 316, the Federal Rules of Evidence, and 37 C.F.R. §§ 42.1, 42.4, 42.20, 42.104, 42.108, and 42.123; the Board’s violation of Genzyme’s Due Process rights under U.S. Constitution Amendment V by failing to provide requisite notice and a full and fair opportunity to respond; the Board exceeding its statutory authority, including by basing its Final Written Decision on facts and/or

law other than those advanced in the Petition or stated to be part of the grounds upon which trial was instituted in the Institution Decision; the Board's erroneous construction of the claim terms of U.S. Patent No. 7,655,226 ("the '226 patent"); the Board's impermissible shifting of the burden to Genzyme to show patentability in violation of 35 U.S.C. § 316(e), 5 U.S.C. § 556(d), and 37 C.F.R. § 42.20(c); the Board's determination that the challenged claims of the '226 patent are unpatentable under 35 U.S.C. § 103, which is factually and legally incorrect, not supported by law or substantial evidence, is not based on consideration of the complete record, was not the result of a logical and rational process, and is incorrect as a matter of law; the Board's decision granting Petitioner's Motion to Submit Supplemental Information entered on January 7, 2015 (Paper 79); the Board's decision denying Genzyme's Motion to Exclude Evidence; and any finding or determination supporting or related to these issues, as well as all other issues decided adversely to Genzyme in any orders, decisions, rulings and opinions, all of which, taken together or independently, caused prejudicial harm to Genzyme.

Simultaneous with this submission, a copy of this Notice of Appeal is being filed with the Patent Trial and Appeal Board and three copies, along with the docketing fee, are being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Dated: April 20, 2015

Respectfully submitted,

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CERTIFICATE OF FILING

I certify that the foregoing PATENT OWNER GENZYME'S NOTICE OF APPEAL was filed electronically through the Board's PRPS System, and the original version was served by priority mail express (Mail Label: EK 476563532 US) on this 20th day of April, 2015, with the Director of the United States Patent and Trademark Office, at the following address:

United States Patent and Trademark Office
c/o Office of the General Counsel
P.O. Box 1450
Alexandria, Virginia 22313-1450

CERTIFICATE OF FILING

I certify that three (3) true and correct copies of the foregoing PATENT OWNER GENZYME'S NOTICE OF APPEAL were filed by hand on this 20th day of April, 2015, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place NW, Suite 401
Washington, DC 20005

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing PATENT OWNER GENZYME'S NOTICE OF APPEAL was served via electronic mail on counsel for Petitioner at the following email addresses, consistent with the parties' email service agreement:

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Dated: April 20, 2015



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