

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PURDUE PHARMA L.P.,
Petitioner,

v.

DEPOMED, INC.,
Patent Owner.

Case No. IPR2014-00377
U.S. Patent No. 6,635,280

PETITIONER PURDUE PHARMA L.P.'S NOTICE OF APPEAL

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

Pursuant to 37 C.F.R. § 90.2(a), notice is hereby given that Petitioner Purdue Pharma L.P. (“Purdue”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“PTAB”) entered on July 8, 2015 (Paper No. 72), and from all underlying orders, decisions, rulings, and opinions, including without limitation the Decision on Institution of *Inter Partes* Review entered on July 10, 2014 (Paper No. 9).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Purdue states that the issues on appeal include, but are not limited to: (1) the PTAB’s decision that Purdue did not show by a preponderance of the evidence that claims 1, 8, 9, 13–15, 45, and 46 of U.S. Patent No. 6,635,280 (the “’280 patent”) are unpatentable, including, and without limitation, the PTAB’s determination that claims 1, 8, 9, 13–15, 45, and 46 of the ’280 patent are not obvious over S.K. Baveja *et al.*, “Zero-order release hydrophilic matrix tablets of β -adrenergic blockers” *International Journal of Pharmaceutics*, 39 (1987) 39-45 (“Baveja”), U.S. Patent No. 5,582,837 (the “’837 patent”), and U.S. Patent No. 4,871,548 (the “’548 patent”); (2) the PTAB’s decision that Purdue did not show by a preponderance of the evidence that claim 10 of the ’280 patent is unpatentable, including, and without limitation, the

PTAB's determination that claim 10 of the '280 patent is not obvious over Baveja, C.J. Kim, "Drug release from compressed hydrophilic POLYOX-WSR tablets" *Journal of Pharmaceutical Sciences*, 84 (3) (1995) 303-306, the '837 patent, and the '548 patent; (3) the PTAB's decision that Purdue did not show by a preponderance of the evidence that claim 43 of the '280 patent is unpatentable, including, and without limitation, the PTAB's determination that claim 43 of the '280 patent is not obvious over Baveja, the '837 patent, and P. Colombo *et al.* "Drug release modulation by physical restrictions of matrix swelling" *International Journal of Pharmaceutics*, 63 (1990) 43-48; (4) the PTAB's findings regarding the scope and content of the prior art references of record; (5) the PTAB's findings regarding the testimony of Purdue's expert Roland Bodmeier, and the testimony and report of Purdue's expert Kinam Park; and (6) any explicit or implicit finding or determination supporting or relating to those issues, as well as all other issues decided adversely to Purdue in any orders, decisions, 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 Patent Trial and Appeal Board. In addition, a copy of this Notice along with the required docketing fees are being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit via CM/ECF.

Respectfully submitted,

Date: August 3, 2015

By: /s/ John J. Normile

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that, in addition to being filed and served electronically through the PTAB's PRPS System, the foregoing PETITIONER PURDUE PHARMA L.P.'S NOTICE OF APPEAL was filed and served by hand on this 3rd day of August, 2015, 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 on this 3rd day of August, 2015, a true and correct copy of the foregoing PETITIONER PURDUE PHARMA L.P.'S NOTICE OF APPEAL, and the filing fee, were filed with the Clerk's Office of the United States Court of Appeals for the Federal Circuit via CM/ECF.

I further hereby certify that on this 3rd day of August, 2015, a true and correct copy of the foregoing PETITIONER PURDUE PHARMA L.P.'S NOTICE OF APPEAL was served, in accordance with the parties' electronic service agreement, by electronic mail upon the following counsel for Patent Owner Depomed, Inc.:

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