

Date Filed: January 29, 2016

On Behalf Of:

Novartis AG and LTS Lohmann Therapie-Systeme AG,
Patent Owners

By: Raymond R. Mandra
ExelonPatchIPR@fchs.com
(212) 218-2100

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NOVEN PHARMACEUTICALS, INC.,
and MYLAN PHARMACEUTICALS INC.
Petitioner,

v.

NOVARTIS AG and LTS LOHMANN THERAPIE-SYSTEME AG,
Patent Owner.

Case No. IPR2014-00549¹
U.S. Patent 6,316,023 B1

**NOVARTIS AG and LTS LOHMANN THERAPIE SYSTEME AG's
NOTICE OF APPEAL UNDER 37 C.F.R. § 90.2(a)**

¹ Case IPR2015-00265 has been joined with this proceeding.

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a) and 35 U.S.C. § 142, that Patent Owners Novartis AG and LTS Lohmann Therapie Systeme AG appeal 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 IPR2014-00549 entered on September 28, 2015 (Paper 69) (“Final Written Decision”) and from the Decision Denying Patent Owner’s Request for Rehearing entered on November 30, 2015 (Paper 77) (“Rehearing Request Denial”), and from all underlying orders, decisions, rulings and opinions, including without limitation the Decision Instituting Inter Partes Review entered on October 14, 2014 (Paper 10) (“Institution Decision”).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owners indicate 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 and 556, 35 U.S.C. §§ 2, 311, 314 and 316, and 37 C.F.R. §§ 42.1, 42.20, and 42.104; the Board’s failure to abide by its burden under *In re Baxter International, Inc.*, 678 F.3d 1357, 1365 (Fed. Cir. 2012) to “ideally . . . not arrive at a different conclusion” from the Federal Circuit’s decision in *Novartis Pharmaceuticals Corp. v. Watson Laboratories, Inc.*, 611 F. App’x 988 (Fed. Cir. 2015) affirming the nonobviousness of the U.S. Patent No. 6,316,023 (“’023 patent”); the Board’s impermissible shifting of the burden to Patent Owners to show patentability in

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Raymond R. Mandra

Registration No. 34,382

Lead Counsel for Patent Owners

Fitzpatrick, Cella, Harper & Scinto

1290 Avenue of the Americas

New York, New York 10104-3800

Tel. (212) 218-2235

Fax. (212) 218-2200

Email: rmandra@fchs.com

ExelonPatchIPR@fchs.com

CERTIFICATE OF FILING

I certify that the foregoing NOVARTIS AG and LTS LOHMANN THERAPIE SYSTEME AG's NOTICE OF APPEAL UNDER 37 C.F.R. § 90.2(a) was filed electronically through the Board's PRPS System, and the original version was served by priority mail express (Mail Label: EK 476560805 US) on this 29th day of January, 2016, 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 a true and correct copy of the foregoing NOVARTIS AG and LTS LOHMANN THERAPIE SYSTEME AG's NOTICE OF APPEAL UNDER 37 C.F.R. § 90.2(a) was filed electronically through the CM/ECF System on this 29th day of January, 2016, 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

