

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MOMENTA PHARMACEUTICALS, INC.,  
Petitioner

v.

BRISTOL-MEYERS SQUIBB COMPANY,  
Patent Owner

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Case No. IPR2015-01537  
U.S. Patent No. 8,476,239

**PETITIONER'S NOTICE OF APPEAL**

Pursuant to 35 U.S.C. §§ 142 and 37 C.F.R. § 90.2(a), Petitioner, Momenta Pharmaceuticals, Inc., respectfully gives Notice that it hereby appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board's ("Board") Final Written Decision, dated December 22, 2016 (Paper 37), and from all other underlying orders, decisions, rulings and opinions related thereto and included therein. This notice is timely filed within 63 days of the Board's Final Written Decision.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Petitioner indicates that the issues on appeal include, but are not limited to (1) whether the Board erred in finding that claims 1-15 of U.S. Patent No. 8,476,239 were patentable over U.S. Patent Publ. No. 2003/0083246 ("Cohen") in view of the Rational Design of Stable Protein Formulations (John F. Carpenter and Mark C. Manning. eds., 2002) ("Carpenter") and Shire et al., "Challenges in the Development of High Protein Concentration Formulations," 93 J. Pharm. Sciences 1390 (2004), (2) the Board's claim constructions or failure to construe any terms, and (3) any findings or determinations supporting or related to the aforementioned issues as well as other issues decided adversely to Momenta in any order, decisions, rulings, or opinions.

Simultaneous with this submission, a copy of this Notice of Appeal is being filed with the Patent Trial and Appeal Board. In addition, this Notice of Appeal is

being filed with the Clerk's Office for the United States Court of Appeals for the  
Federal Circuit.

Respectfully submitted,

Date: /2-22-17/

/Dorothy P. Whelan/

Dorothy P. Whelan

Reg. No. 33,814

*Attorney for Momenta Pharmaceuticals, Inc.*

Customer Number 26171

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**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to 37 CFR §§ 42.6(e)(4)(i) *et seq.* and 42.105(b), that on this 22nd day of February, 2017, a complete and entire copy of this Notice of Appeal was provided by FedEx to the Patent Owner by serving the address of record as follows:

Andrea G. Reister  
Enrique D. Longton  
Christopher Sipes  
Covington & Burling LLP  
One CityCenter, 850 Tenth Street, NW  
Washington, DC 20001

I hereby certify that, in addition to being filed electronically through the Board's E2E System, the original version of the foregoing, Notice of Appeal, was served by hand on this 22nd day of February, 2017, 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, 1 OB20  
600 Dulany Street  
Alexandria, VA 22314-5793

I hereby certify that the foregoing Notice of Appeal was filed electronically on this 22nd day of February, 2017, 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, N.W., Suite 401  
Washington, DC 20005

Respectfully submitted,

Date: /2-22-17/

/Dorothy P. Whelan/

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