

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLTRION, INC.,
Petitioner,
v.

GENENTECH, INC.,
Patent Owner.

Inter Partes Review No. IPR2017-01140
Patent 7,371,379

**PETITIONER'S NOTICE OF APPEAL TO THE UNITED STATES COURT
OF APPEALS FOR THE FEDERAL CIRCUIT**

Notice is hereby given, pursuant to 35 U.S.C. §§ 141(c), 142, and 319, 37 C.F.R. §§ 90.2(a) and 90.3(a), and Federal Circuit Rule 15(a)(1), that Petitioner Celltrion, Inc. appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board's Final Written Decision, entered on October 3, 2018 (Paper 69), and from all underlying and related findings, orders, decisions, rulings and opinions that are adverse to Petitioners in the above-captioned *inter partes* review of U.S. Patent No. 7,371,379 ("the '379 patent"). This notice is timely filed within 63 days of the Board's Final Written Decision. 37 C.F.R. § 90.3(b)(1).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Petitioner indicates that the issues on appeal may include, but are not limited to the following: (1) whether the Board erred in holding that claims 1-3, 5, 7, 9-11, 13-28, and 30-40 of the '379 patent are not unpatentable for obviousness under 35 U.S.C. § 103; (2) whether the Board erred in holding that Petitioner failed to establish the motivation for a skilled artisan to modify the loading and the maintenance dosage as the challenged claims required, and further, that a skilled artisan would not apply the concept of dosage intensity to antibody treatment; (3) whether the Board erred in holding that for claims 30-32, 35-37, and 40 Petitioner failed to establish that a skilled artisan would have a reasonable expectation of success in practicing the challenged claims; (4) whether the Board erred in applying its reasoning on the lack of

motivation to modify dosage amount to claims 30, 31, 35, 36, and 40, which lack a specific dosage amount limitation; (5) whether the Board's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (6) whether the Board's subsidiary findings were unsupported by substantial evidence and rested on legal error; and (7) all other issues decided adversely to Petitioner, including any orders, decisions, rulings and/or opinions.

Simultaneously with this submission, Petitioner is filing a true and correct copy of this Notice of Appeal with the Director of the U.S. Patent and Trademark Office and filing one copy of this Notice of Appeal, along with the required docketing fees, with the Clerk of the U.S. Court of Appeals for the Federal Circuit as set forth in the accompanying Certificate of Filing and Certificate of Service.

Respectfully submitted,

Dated: December 4, 2018

By: /Cynthia Lambert Hardman/
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Counsel for Petitioner

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that “PETITIONER’S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT” was served on this 4th day of December 2018, via email, to attorney for Patent Owner:

Via email:

David Cavanaugh (David.Cavanaugh@wilmerhale.com)

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Robert Galvin (Robert.Galvin@wilmerhale.com)

The undersigned hereby certifies “PETITIONER’S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT” was filed with the Director of the United States Patent and Trademark Office electronically via the Patent Trial and Appeal Board’s End to End system (PTAB E2E), and via first class mail, postage prepaid at the address below on this 4th day of December 2018.

Via first class mail:

Director of the United States Patent and Trademark Office
Office of the General Counsel
Patent and Trademark Office
Madison Building East,10B20
600 Dulany Street
Alexandria, VA 22314-5793

The undersigned also certifies that “PETITIONER’S NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT” was filed with the Clerk of the United States Court of Appeals for the Federal Circuit electronically via CM/ECF and via first class mail, postage prepaid at the address below on this 4th day of December 2018.

Via first class mail:

Clerk of Court
United States Court of Appeal for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

Dated: December 4, 2018

/Cynthia Lambert Hardman/

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