

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**SANOFI-AVENTIS U.S. LLC,
GENZYME CORP., and
REGENERON PHARMACEUTICALS, INC.,
Petitioners,**

v.

**IMMUNEX CORPORATION,
Patent Owner.**

**Case IPR2017-01879
Patent 8,679,487**

PETITIONERS' NOTICE OF APPEAL

Pursuant to 35 U.S.C. §§ 141, 142, and 319; 37 C.F.R. §§ 90.2-90.3; Federal Rule of Appellate Procedure 15; and Federal Circuit Rule 15, Petitioners Sanofi-Aventis U.S. LLC, Genzyme Corp., and Regeneron Pharmaceuticals, Inc. (“Petitioners”) hereby provide notice that they 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”) entered on February 14, 2019 in IPR2017-01879 (Paper No. 88) (“Final Written Decision”), and from all underlying findings, determinations, rulings, opinions, orders, issues, and decisions regarding the *inter partes* review of U.S. Patent No. 8,679,487 (the “’487 Patent”). This notice is timely under 37 C.F.R. § 90.3, having been filed no later than 63 days after the Final Written Decision.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Petitioners state that the issues on appeal include, but are not limited to: the Board’s determination that claims 1-14, 16, and 17 of the ’487 Patent have not been shown to be unpatentable; the Board’s determination that a publication at issue (US 2002/0002132 A1 (the “’132 Publication”)) does not anticipate the ’487 Patent; the Board’s determination that the ’132 Publication is not prior art to the ’487 Patent under 35 U.S.C. § 102(e); the Board’s failure to confirm that the ’132 Publication is enabling; the Board’s consideration of the expert testimony, fact

witness testimony, and other evidence in the record; and the Board's factual findings, conclusions of law, or other determinations supporting or related to the foregoing issues, as well as all other issues decided adversely to Petitioners in any orders, decisions, rulings, or opinions.

This Notice of Appeal is being e-filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees. In addition, a true and correct copy of this Notice of Appeal is being filed simultaneously with the Director of the United States Patent and Trademark Office.

Dated: April 15, 2019

Respectfully submitted,

/Lauren Fornarotto/

Lauren Fornarotto (Reg. No. 76,470)
McKool Smith, P.C.
One Bryant Park, 47th Floor
New York, NY 10036
Telephone: (212) 402-9400
Facsimile: (212) 402-9444
Email: RS-IPR@McKoolSmith.com

Mike McKool (*pro hac vice*)
McKool Smith, P.C.
300 Crescent Court, Suite 1500
Dallas, Texas 75201
Telephone: (214) 978-4000
Facsimile: (214) 978-4044
Email: RS-IPR@McKoolSmith.com

John B. Campbell (Reg. No. 54,665)
John F. Garvish (*pro hac vice*)
Geoffrey L. Smith (*pro hac vice*)
Matthew T. Cameron (Reg. No. 74,179)
McKool Smith, P.C.
300 W. 6th Street, Suite 1700
Austin, Texas 78701
Telephone: (512) 692-8700
Facsimile: (512) 692-8744
Email: RS-IPR@McKoolSmith.com

George W. Hicks, Jr. (*pro hac vice*)
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: (202) 389-5000
Email: george.hicks@kirkland.com

Counsel for Petitioners

CERTIFICATE OF FILING

The undersigned certifies that on April 15, 2019, in addition to being filed electronically through the PTAB's E2E System, a true and correct copy of **PETITIONERS' NOTICE OF APPEAL** is being filed by hand with the Director of the U.S. Patent and Trademark Office at the following address:

Office of the General Counsel
10B20, Madison Building East
600 Dulany Street
Alexandria, Virginia 22313

The undersigned also certifies that on April 15, 2019, a true and correct copy of **PETITIONERS' NOTICE OF APPEAL** is being filed via the electronic filing system, CM/ECF, with the Clerk's Office of the U.S. Court of Appeals for the Federal Circuit.

/Lauren Fornarotto/

(Reg. No. 76,470)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on April 15, 2019, a complete copy of **PETITIONERS' NOTICE OF APPEAL** was served on Lead Counsel and Back-Up Counsel for Patent Owner via email (by consent) to:

Eldora L. Ellison (Reg. No. 39,967)
David H. Holman (Reg. No. 61,205)
David W. Roadcap (Reg. No. 68,956)
Jaime M. Canaves (Reg. No. 63,929)
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W.
Washington, DC 20005
202.371.2600 (reception)
202.371.2540 (facsimile)
eellison-PTAB@skgf.com
dholman-PTAB@skgf.com
droadcap-PTAB@skgf.com
jcanaves-PTAB@skgf.com

/Lauren Fornarotto/
(Reg. No. 76,470)