

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APOTEX INC. and APOTEX CORP.,  
Petitioners,

v.

AMGEN INC. and AMGEN MANUFACTURING LIMITED,  
Patent Owners.

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Case IPR2016-01542  
Patent 8,952,138

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**PATENT OWNERS' 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 Patent Owners Amgen Inc. and Amgen Manufacturing Limited (“Amgen” or “Patent Owners”) appeal to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“PTAB”) in Case No. IPR2016-01542 entered on February 15, 2018 (Paper No. 60); from the Decision Denying Petitioner’s Request for Rehearing and Amending Prior Decision of the PTAB entered on May 20, 2019 (Paper No. 67); and from all underlying orders, decisions, determinations, rulings, and opinions.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owners state that the issues on appeal include, but are not limited to: (1) the PTAB’s construction of the term “final thiol-pair ratio” in Claim 1 of U.S. Patent No. 8,952,138 (“’138 Patent”); (2) the PTAB’s determination that Petitioners have shown by a preponderance of the evidence that Claims 1-17 and 19-24 of the ’138 Patent are invalid as obvious under 35 U.S.C. § 103 over Schlegl (EX1003) and Hevehan (EX1004); (3) whether the PTAB’s *sua sponte* amendment of its Final Written Decision (in its Decision Denying Petitioner’s Request for Rehearing and Amending Prior Decision (Paper No. 67)) violated the Administrative Procedure

Act or was otherwise unlawful; (4) the PTAB's determination in its Decision Denying Petitioner's Request for Rehearing and Amending Prior Decision (Paper No. 67) that Petitioners have shown by a preponderance of the evidence that Claim 18 of the '138 Patent is invalid as obvious under 35 U.S.C. § 103 over Schlegl (EX1003) and Hevehan (EX1004); and (5) any explicit or implicit finding or determination supporting or relating to those issues, as well as all other issues decided adversely to Patent Owners in any orders, decisions, determinations, 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 PTAB. In addition, the requisite number of copies 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.

Respectfully submitted,

Dated: July 22, 2019

/Arlene L. Chow /  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 22, 2019, a true and correct copy of the foregoing PATENT OWNERS' NOTICE OF APPEAL was served by filing this document through the Patent Trial and Appeal Board End to End System as well as delivering a copy via electronic mail upon the following attorneys of record for Apotex Inc. and Apotex Corp.:

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The undersigned also hereby certifies that on July 22, 2019, a true and correct copy of the foregoing PATENT OWNERS' NOTICE OF APPEAL is being filed by hand 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  
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The undersigned also hereby certifies that on July 22, 2019, a true and correct paper copy of the foregoing PATENT OWNERS' NOTICE OF APPEAL, a true and correct electronic copy of the foregoing PATENT OWNERS' NOTICE OF APPEAL, and the required docketing fee are being filed by hand, CM/ECF, and Pay.gov, respectively, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit.

Dated: July 22, 2019

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