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specially appearing Defendants Sandoz GmbH
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

INSITE VISION INCORPORATED,
INSPIRE PHARMACEUTICALS, INC.
PFIZER INC.

Plaintiffs,

v.

SANDOZ INC.
SANDOZ GMBH
SANDOZ INDUSTRIAL PRODUCTS
S.A.

Defendants.

CIVIL ACTION No. 3:11-CV-03080

**HON. MARY L. COOPER, U.S.D.J.
HON. LOIS H. GOODMAN, U.S.M.J.**

NOTICE OF APPEAL

Notice is hereby given that Defendant and Counterclaim Plaintiff Sandoz Inc. appeals to the United States Court of Appeals for the Federal Circuit from the Order and Final Judgment [DE 176] entered in this action on the 4th day of

October, 2013, and from any and all other orders and rulings adverse to Sandoz Inc. in whole or in part, including but not limited to the August 8, 2012 Order of Claim Construction [DE 70] and the October 4, 2013 Memorandum Opinion [DE 175].

Notice is further hereby given that Defendants Sandoz GmbH and Sandoz Industrial Products S.A. (collectively, with Sandoz Inc., “Defendants”), specially appearing for the purposes of contesting jurisdiction and service of process, and without submitting to the jurisdiction or venue of this Court nor waiving any other defense, appeal to the United States Court of Appeals for the Federal Circuit from the Order and Final Judgment [DE 176] entered in this action on the 4th day of October, 2013, and from any and all other orders and rulings adverse to them in whole or in part, including but not limited to the August 8, 2012 Order of Claim Construction [DE 70] and the October 4, 2013 Memorandum Opinion [DE 175].

Defendants believe that any judgment in this case is not yet final, as there currently is pending Defendants’ Motion To Amend Order And Final Judgment And Memorandum Opinion Pursuant To Fed. R. Civ. P. 59(e) [DE 180]. *See* Fed. R. App. P. 4(a)(4)(A)(iv). Although putative Defendants Sandoz GmbH and Sandoz Industrial Products S.A. (“SIP”) are named in the Complaint filed in this action, neither was ever served with process. *See* Final Pretrial Order, dated May 23, 2013, at 3 [DE 121]. Sandoz GmbH and SIP are not U.S. companies, and both

maintain that they are not subject to personal jurisdiction in this Court. Sandoz GmbH and SIP thus have specially appeared for purposes of moving, pursuant to Fed. R. Civ. P. 59(e), to amend the Order and Final Judgment, and the accompanying Memorandum Opinion, to clarify that the claims against Sandoz GmbH and SIP should be dismissed without prejudice. Sandoz GmbH and SIP likewise specially appear to note this protective appeal.

Accordingly, out of an abundance of caution and to preserve the right to appeal, Defendants hereby give notice that they appeal from any and all orders issued adverse to them. If judgment is deemed to have entered already, this notice of appeal is effective immediately; if judgment has not yet entered, this notice of appeal will become effective upon the district court's disposition of Defendants' pending Rule 59(e) motion. *See* Fed. R. App. P. 4(a)(4)(B)(i).

Dated: November 1, 2013

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By: /s/ Eric I. Abraham

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