

Despite filing this notice, Plaintiffs believe that there is no final judgment yet in this case. The Court's July 19, 2013 Memorandum and Order did not address Amphastar's counterclaims for declaratory judgment of non-infringement and invalidity of the asserted claims of U.S. Patent No. 7,575,886 (the "886 patent") and U.S. Patent No. 7,790,466 (the "466 patent"), and those counterclaims remain unresolved. *See Pause Technology LLC v. TiVo Inc.*, 401 F.3d 1290, 1295 (Fed. Cir. 2005) (final judgment cannot enter until all claims, including invalidity counterclaims, are resolved or dismissed). Nevertheless, out of an abundance of caution and to preserve their right to appeal, Plaintiffs hereby give notice that they appeal from any and all orders issued adverse to them. If judgment is deemed to have entered on December 16, 2013 by operation of Fed. R. Civ. P. 58(c)(2)(B), this notice of appeal is immediately effective; if judgment has not yet entered, this notice of appeal will become effective upon entry of judgment, pursuant to Fed. R. App. P. 4(a)(2).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those non-registered participants (if any) on January 14, 2014.

/s/ Robert S. Frank, Jr.

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