

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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HYPOXICO INC.,	:	
Plaintiff/Counter-Defendant,	:	
vs.	:	
COLORADO ALTITUDE TRAINING LLC AND	:	
LAWRENCE KUTT,	:	Civil Action No.
Defendants/Counter-Plaintiffs, Third Party Plaintiffs,	:	02 Civ. 6191 (TPG)
-and-	:	
AGA AB,	:	
Involuntary Counter-Plaintiff and Third-Party Plaintiff,.	:	
vs.	:	
IGOR K. (“GARY”) KOTLIAR,	:	
Third-Party Defendant.	:	
	:	

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NOTICE OF APPEAL

Notice is hereby given that Hypoxico, Inc., Plaintiff/Counter-Defendant (“Hypoxico”), in the above named case hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Judgment entered in this action on May 21, 2014, [D.N. 255]; and from any and all other orders, rulings, findings, and/or conclusions of any kind whatsoever decided adversely to Hypoxico, in whole or in part, at any time, including, but not limited to, the following: the Order Granting a New Trial entered on May 29, 2009 [D.N. 149]; the Order denying Hypoxico’s *Markman* motion entered January 13, 2012 [D.N. 170]; the Order excluding

Hypoxico's proof of lost profits and denying Hypoxico's application to preclude defendants' reliance on 28 U.S.C. § 1498(a), *inter alia*, entered on May 2, 2012 [D.N. 238]; the Order dismissing claims of inducement against defendant Lawrence Kutt entered on August 8, 2012 [D.N. 240]; the Order and Opinion Granting Judgment as a Matter of Law entered on August 28, 2012 [D.N. 242]; and any and all oral orders adverse to Hypoxico rendered before, during, and after both trials held in this matter, including but not limited to all oral orders regarding motions *in limine*, motions for judgment as a matter of law, evidentiary objections before and during trial, claim constructions (*e.g.*, Tr.Tr. 2, page 1489, lines 7-15; and page 1489, line 20 – page 1490, line 1), jury instructions, and verdict forms.

Accompanying this Notice is payment of the \$5 filing fee required by 28 U.S.C. § 1917 and the docketing fee required by Federal Circuit Rule 52(a)(3)(A), paid to this Court pursuant to Federal Rule of Appellate Procedure 3(e) and Federal Circuit Rule 52(a)(2), and any and all other fees due for the filing of this appeal.

Dated: June 11, 2014

THE LAW OFFICES OF ROGER S. THOMPSON
Attorneys for HYPOXICO, INC. and
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