

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

ENDO PHARMACEUTICALS INC. and
GRÜNENTHAL GMBH,

Plaintiffs,

v.

ACTAVIS INC., ACTAVIS SOUTH
ATLANTIC LLC, and WATSON
PHARMACEUTICALS, INC.,

Defendants.

C.A. No. 13-cv-436-TPG

**ENDO PHARMACEUTICAL INC.'S NOTICE OF APPEAL TO THE UNITED STATES
COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Notice is hereby given that Plaintiff Endo Pharmaceuticals Inc. (“Endo”) appeals in the above-named case to the United States Court of Appeals for the Federal Circuit from the Judgment entered on August 24, 2015 (D.I. 142), insofar as that Judgment denies Endo’s requests for relief regarding U.S. Patent No. 8,309,060 (“the ‘060 Patent”) and claims 40 and 42 of U.S. Patent No. 8,329,216 (“the ‘216 Patent”), and from the Orders preceding that Judgment, including without limitation¹:

¹ Endo notes that Plaintiffs have filed a motion pursuant to Fed. R. Civ. P. 60 to correct the Judgment entered in this case. (D.I. 143). Accordingly, the time for Endo to file a Notice of Appeal from the Judgments entered in this case does not start until this Court’s resolution of the pending motion at the earliest, and this Notice of Appeal becomes effective only after that motion is resolved. *See* Fed. R. App. P. 4(a)(4)(a) and Fed. R. App. P. 4(a)(4)(B)(i); *Dudley ex rel. Estate of Patton v. Penn-America Ins. Co.*, 313 F.3d 662 (2d Cir. 2002). Nevertheless, Endo is filing this Notice of Appeal out of an abundance of caution should any court decide that the August 24, 2015 Judgment was a final judgment for purposes of calculating the time to appeal.

Endo further notes that for the same reasons, Actavis’s Notice of Appeal in this case (D.I. 148), which was filed earlier today, also does not become effective until after Plaintiffs’ motion pursuant to Rule 60 is resolved.

- 1) the August 14, 2015 Findings of Fact and Conclusions of Law, entered on August 18, 2015 denying Endo's requests for relief regarding the '060 Patent and claims 40 and 42 of the '216 Patent (D.I. 141);
- 2) the August 14, 2015 Order entered denying Endo's requests for relief regarding the '060 Patent and claims 40 and 42 of the '216 Patent (D.I. 140);
- 3) the Opinion entered March 17, 2015, granting Defendant's Motion for Summary Judgment with respect to U.S. Patent No. 8,114,383 (D.I. 117); and
- 4) all opinions, orders, and rulings subsumed therein and made prior and after thereto resulting in final judgment adverse to Endo's requests for relief.

Dated: September 11, 2015

By: /s/ Brian M. Goldberg
Robert D. Rhoad
Brian M. Goldberg
DECHERT LLP
902 Carnegie Center
Suite 500
Princeton, NJ 08540
(609) 955-3200
robert.rhoad@dechert.com
brian.goldberg@dechert.com

Blake B. Greene
DECHERT LLP
300 W. 6th Street
Suite 2010
Austin, TX 78701
(512) 394-3000
blake.greene@dechert.com

Martin J. Black
Sharon K. Gagliardi
DECHERT LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104
(215) 994-4000

martin.black@dechert.com
sharon.gagliardi@dechert.com

Jonathan D. Loeb
DECHERT LLP
2440 W. El Camino Real
Suite 700
Mountain View, CA 94040
(650) 813-4800
jonathan.loeb@dechert.com

ATTORNEYS FOR PLAINTIFF
ENDO PHARMACEUTICALS INC.