

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

ENDO PHARMACEUTICALS INC.,

Plaintiff,

v.

ACTAVIS INC., and ACTAVIS SOUTH
ATLANTIC LLC,

Defendants.

C.A. No. 12-cv-8985-TPG

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

Notice is hereby given that Plaintiff Endo Pharmaceuticals Inc. (“Endo”) cross-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. 108), insofar as that Judgment denies Endo’s requests for relief regarding claims 40 and 42 of U.S. Patent No. 8,329,216 (“the ‘216 Patent”), and from the Orders preceding that Judgment, including without limitation:

- 1) the August 14, 2015 Findings of Fact and Conclusions of Law, entered on August 18, 2015, denying Endo’s requests for relief regarding claims 40 and 42 of the ‘216 Patent (D.I. 107);
- 2) the August 14, 2015 Order entered denying Endo’s requests for relief regarding claims 40 and 42 of the ‘216 Patent (D.I. 106); and
- 3) all opinions, orders, and rulings subsumed therein and made prior and after thereto resulting in entry of final judgment adverse to Endo’s requests for relief.

Endo notes that it has filed a motion pursuant to Fed. R. Civ. P. 60 to correct the Judgment entered in this case (D.I. 113), Actavis has filed a motion pursuant to Fed. R. Civ. P. 59 to alter the Judgment entered in this case (D.I. 109), and Endo has filed a motion pursuant to Fed. R. Civ. P. 52 to amend/correct the Judgment entered in this case (D.I. 124).

Accordingly, as a motion of the type enumerated in Fed. R. App. P. 4(a)(4) has been filed in the United States District Court for the Southern District of New York, Endo believes that Actavis's Notice of Appeal has been rendered ineffective. Endo believes that the Federal Circuit should deactivate Actavis's appeal (Fed. Cir. Dkt. No. 16-1025) and consolidate it with the related, deactivated appeals under lead case, Fed. Cir. Dkt. No. 15-2021. . Nevertheless, Endo is filing this Notice of Cross-Appeal out of an abundance of caution.

Dated: October 16, 2015

By: /s/ Sharon K. Gagliardi

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice of Appeal has been served on all counsel of record via the Court's CM/ECF system pursuant to Local Civil Rule 5.2(a), on October 16, 2015.

By: /s/ Sharon K. Gagliardi
Sharon K. Gagliardi