

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

ENDO PHARMACEUTICALS INC. and  
GRÜNENTHAL GMBH,

Plaintiffs,

v.

IMPAX LABORATORIES, INC.,

Defendant.

C.A. No. 13-cv-435-TPG

**PLAINTIFF ENDO PHARMACEUTICAL INC.’S PROTECTIVE AMENDED  
NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE  
FEDERAL CIRCUIT**

In light of the Court’s June 29, 2016 Order Resolving Post-Trial Motions (D.I. 173) and the accompanying June 29, 2016 Amended Judgment (D.I. 174) in the above-named action, notice is hereby given that Plaintiff Endo Pharmaceuticals Inc. (“Endo”) hereby files this protective amended notice of appeal to the United States Court of Appeals for the Federal Circuit and appeals from the judgments and orders listed below:<sup>1</sup>

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<sup>1</sup> Endo notes that the parties filed certain post-trial motions that fall under Federal Rule of Appellate Procedure 4(a)(4)(A), including Plaintiffs’ September 1 and 21, 2015 motions pursuant to Federal Rule of Civil Procedure 52(b) and 60(a) to amend and correct the Judgment entered on August 24, 2015 in the above action (D.I. 137, 148). Accordingly, the time for Endo to file a Notice of Appeal from the Judgment entered in this action did not start until this Court’s resolution of the pending motions at the earliest. *See* Fed. R. App. P. 4(a)(4)(A). Nevertheless, Endo filed a Notice of Appeal on September 11, 2015, out of an abundance of caution lest any court should decide that the August 24, 2015 Judgment was a final judgment for purposes of calculating the time to appeal. Pursuant to Federal Rule of Appellate Procedure 4(a)(4)(B)(i), Endo’s September 11, 2015 Notice of Appeal is “treated as filed on the date of and after the entry” of the Court’s June 29, 2016 Order Resolving Post-Trial Motions (D.I. 173) and the accompanying June 29, 2016 Amended Judgment (D.I. 174). Out of an abundance of caution, Endo hereby files this protective notice of appeal to amend its earlier notice of appeal in light of

- 1) the Amended Judgment entered on June 29, 2016, in the above-captioned case, (D.I. 174), and the Judgment entered on August 24, 2015, in the above-captioned case, (D.I. 136), as amended by the June 29, 2016 Amended Judgment, each denying Endo's requests for relief regarding United States Patent Number 8,309,060 ("the '060 Patent) and claims 40 and 42 of United States Patent Number 8,329,216 ("the '216 patent");
- 2) the Order Resolving Post-Trial Motions entered on June 29, 2016, in the above-captioned case (D.I. 173);
- 3) the Omnibus Opinion entered on April 29, 2016, in the above-captioned case (D.I. 164);
- 4) the Findings of Fact and Conclusions of Law dated August 14, 2015, and entered on August 18, 2015, in the above-captioned case (D.I. 135), denying Endo's requests for relief regarding the '060 Patent and claims 40 and 42 of the '216 patent;
- 5) the Order entered on August 14, 2015, in the above-captioned case (D.I. 134), denying Endo's requests for relief regarding the '060 Patent and claims 40 and 42 of the '216 patent;
- 6) the Opinion entered on March 17, 2015, granting Defendants' Motion for Summary Judgment with respect to U.S. Patent No. 8,114,383 in the above-captioned case, (D.I. 118); and
- 7) all opinions, orders, and rulings subsumed therein and made prior and after thereto resulting in final judgment adverse to Endo's requests for relief.

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the Court's June 29, 2016 Order Resolving Post-Trial Motions (D.I. 173) and the accompanying June 29, 2016 Amended Judgment (D.I. 174).

All applicable fees were paid when Endo filed its original notice of appeal on September 11, 2015, and pursuant to Federal Rule of Appellate Procedure 4(a)(4)(B)(iii) no additional fees are required to file this protective amended notice.

Dated: July 15, 2016

By: /s/ Brian M. Goldberg

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ATTORNEYS FOR PLAINTIFF  
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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Protective Amended 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 July 15, 2016.

By: /s/ Brian M. Goldberg  
Brian M. Goldberg