

Pursuant to Federal Rules of Appellate Procedure 3 and 4, notice is hereby given that Defendant Daiichi Sankyo Company, Limited (“DSC”) and Intervenor-Defendants AstraZeneca Pharmaceuticals LP and AstraZeneca UK Ltd. (collectively “Defendants”) hereby appeal to the United States Court of Appeals for the Federal Circuit from the Amended Final Judgment entered in this action by the United States District Court for the Eastern District of Texas on October 17, 2023 (Docket No. 512), and from any and all pre- and post-judgment orders, rulings, findings, decisions, and/or conclusions decided adversely to Defendants, in whole or in part, including but not limited to the following: (i) the Memorandum Opinion and Order on claim construction, entered on September 14, 2021 (Docket No. 155); (ii) the jury verdict, returned on April 8, 2022 (Docket No. 370); (iii) the Memorandum Opinion and Order Supported by Findings of Fact and Conclusions of Law entered on July 15, 2022 (Docket No. 431); (iv) the Final Judgment entered on July 19, 2022 (Docket No. 432) (the “July 19, 2022 Judgment”); (v) the Order on a Bill of Costs entered on August 3, 2022 (Docket Nos. 436 and 437); (vi) the Memorandum Opinions and Orders resolving Defendants’ and Plaintiff Seagen Inc.’s (“Seagen’s”) post-trial motions, entered under seal on August 21, 2023 (Docket Nos. 495, 496, and 497) (the “August 21, 2023 Orders”); (vii) the Order resolving Defendants’ post-trial motion to amend or add findings of fact and alter or amend the judgment, entered under seal on October 17, 2023 (Docket No. 510); and (viii) the Amended Memorandum Opinion and Order resolving Defendants’ and Seagen’s post-trial motions, entered under seal on October 17, 2023 (Docket No. 511).

Defendants previously filed a protective notice of appeal from the July 19, 2022 Judgment and the August 21, 2023 Orders as a protective measure to ensure appellate jurisdiction over all of the District Court’s orders and judgments in this action. *See* Docket No. 500. As Defendants explained, they did not believe that the July 19, 2022 Judgment and the August 21, 2023 Orders,

together or separately, constituted a final, appealable judgment. *Id.* at 1-2. In addition, Defendants noted that their pending motion under Federal Rules of Civil Procedure 52(b) and 59(e) to amend or clarify DSC's accounting obligation with respect to an ongoing royalty (Docket No. 499) suspended the time within which to file an appeal. *See* Docket No. 500 at 2-3 (citing *Banister v. Davis*, 140 S. Ct. 1698, 1703 (2020); *Leishman v. Associated Wholesale Elec. Co.*, 318 U.S. 203, 205 (1943); Fed. R. App. P. 4(a)(4)(A)(ii), (iv)). Defendants indicated that, when the District Court resolves their Rule 52(b)/59(e) motion and enters a final, appealable judgment, they will file a second notice of appeal from that judgment. *See* Docket No. 500 at 3.

The Federal Circuit docketed Defendants' protective notice of appeal on September 26, 2023 as Appeal No. 23-2424. The Federal Circuit subsequently entered an order deactivating the appeal pending the resolution of Defendants' Rule 52(b)/Rule 59(e) motion. *See* Docket No. 503. The District Court resolved Defendants' Rule 52(b)/Rule 59(e) motion on October 17, 2023 (*see* Docket No. 510), and entered the Amended Memorandum Opinion and Order resolving Defendants' and Seagen's post-trial motions (Docket No. 511) and the Amended Final Judgment (Docket No. 512). On November 14, 2023, the Federal Circuit entered an order reactivating the protective appeal. *See* No. 23-2424, Docket No. 5 (Fed. Cir.). Defendants hereby timely file this notice of appeal.

Dated: November 16, 2023

By: /s/ Preston K. Ratliff II

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via electronic mail on November 16, 2023.

/s/ Preston K. Ratliff II _____