IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THE RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK; NEW YORK UNIVERSITY; GALDERMA LABORATORIES INC.; and GALDERMA LABORATORIES, L.P. Plaintiffs, vs. LUPIN LIMITED and LUPIN PHARMACEUTICALS, INC., Defendants.	C.A. No. 09-483 (LPS)

NOTICE OF CROSS-APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

On August 3, 2012, Galderma Laboratories Inc., Galderma Laboratories, L.P., and New York University filed notices of appeal in the above-captioned case. Notice is hereby given that Defendants Lupin Limited and Lupin Pharmaceuticals, Inc. (collectively, "Lupin"), hereby cross-appeal to the United States Court of Appeals for the Federal Circuit from those portions of the July 18, 2012 Final Judgment (D.I. 27, C.A. No. 09-483) adverse to Lupin, specifically including those portions finding that U.S. Patent No. 7,211,267 ("the '267 patent") and U.S. Patent No. 7,232,572 ("the '572 patent") are not invalid, as well as all underlying adverse opinions, orders, decisions, and rulings subsumed within said Judgment and/or made prior to entry of Judgment, including but not limited to those portions of the May 16, 2012 Memorandum Order in *The Research Foundation of State University of New York, New York University, Galderma Laboratories Inc., and Galderma Laboratories, L.P. v. Mylan Pharmaceuticals Inc.*, C.A. No. 09-184-LPS (D. Del.) ("the *Mylan Action*") (D.I. 304, C.A. No. 09-184) and the August 26, 2011

Post Trial Opinion in the *Mylan Action* (D.I. 278, C.A. No. 09-184) which are adverse to Lupin as a result of it entering into a stipulated stay with respect to C.A. No. 09-184.[1]

Included herewith is the payment of the filing fee ($5.00) and the docketing fee ($450.00) as required by 28 U.S.C. § 1917 and FED. CIR. R. 52(a)(3)(A), and FED. R. APP. P. 3(e).

Dated: August 8, 2012.

Respectfully submitted,

PHILLIPS, GOLDMAN & SPENCE, P.A.

By: */s/ John C. Phillips, Jr.*
John C. Phillips, Jr. (#110)
1200 N. Broom Street
Wilmington, DE 19899-1347
(302) 655-4200
jcp@pgslaw.com

Of Counsel
William A. Rakoczy
Paul J. Molino
Joseph T. Jaros
Robert M. Teigen
RAKOCZY MOLINO MAZZOCHI SIWIK LLP
6 West Hubbard Street, Suite 500
Chicago, Illinois 60654
Telephone: 312-222-6301
Facsimile: 312-222-6321
wrakoczy@rmmslegal.com

Counsel for LUPIN LTD. and LUPIN PHARMACEUTICALS, INC.

[1] Lupin cross-appeals to preserve its rights in light of certain Federal Circuit case law discussing when a cross-appeal must be initiated. *See, e.g., Bailey v. Dart Container Corp.*, 292 F.3d 1360, 1362 (Fed. Cir. 2002); *Minnesota Mining & Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1308-09 (Fed. Cir. 2002). Specifically, a cross-appeal may be proper "when a party seeks to enlarge its own rights under the judgment or to lessen the rights of its adversary under the judgment." *Bailey*, 292 F.3d at 1362. Lupin submits that a finding of invalidity with respect to the '267 and '572 patents, in addition to the district court's finding of non-infringement, would lessen the patentees' rights, and therefore a cross-appeal is appropriate. In the alternative, Lupin respectfully requests that the Federal Circuit treat Lupin's arguments in support of its cross-appeal as alternative arguments in support of the district court's grant of final judgment in favor of Lupin.