

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**ALLERGAN, INC. and DUKE
UNIVERSITY,**

Plaintiffs,

v.

APOTEX INC. and APOTEX CORP.,

Defendants.

Case No. 1:10-CV-681

**ALLERGAN, INC. and DUKE
UNIVERSITY,**

Plaintiffs,

v.

SANDOZ INC.,

Defendant.

Case No. 1:11-CV-298

**ALLERGAN, INC. and DUKE
UNIVERSITY,**

Plaintiffs,

v.

HI-TECH PHARMACAL CO., INC.,

Defendant.

Case No. 1:11-CV-650

NOTICE OF APPEAL

Notice is hereby given that Apotex Inc. and Apotex Corp. (collectively, “Apotex”), Sandoz Inc. (“Sandoz”) and Hi-Tech Pharmacal Co., Inc. (“Hi-Tech”), Defendants in the above-captioned consolidated actions, hereby appeal to the United States Court of Appeals for the Federal Circuit from the Court’s Judgment of January 25, 2013 (Doc. 209), and from all decisions, opinions, orders, and rulings subsumed therein and/or made prior to entry of the January 25, 2013 Judgment in this action, including, but not limited to, the following

- From the Court’s January 25, 2013 Judgment (Doc. 209), denying *inter alia* Defendants’ claims, submitted at trial, of patent non-infringement and patent invalidity for lack of enablement and written description, anticipation, and obviousness pursuant to 35 U.S.C. §§ 102, 103 and 112.
- From the Court’s January 24, 2013 Memorandum Opinion and Order (Doc. 208), including the portion thereof denying Defendants’ Rule 52(c) motion on conception;
- From the Court’s January 24, 2013 Order (Doc. 207) denying Defendants’ motion to strike testimony from Plaintiffs’ expert Dr. Robert Noecker (Doc. 183);
- From the Court’s November 27, 2012 Claim Construction Order (Doc. 180);
- From the Court’s November 27, 2012 Order regarding evidentiary objections (Doc. 181);
- From the Court’s November 8, 2012 ruling, denying Defendants’ Rule 52(c) motion on non-infringement (*see* 11/8/2012 Tr. at 67:25-68:1);

- From the Court's November 4, 2012 Order, denying Defendants' motion in *limine* on the alleged invention dates for the patents-in-suit (Doc. 118);
- From the Court's September 22, 2012 Order, granting Plaintiffs' motion to compel Apotex to produce FDA correspondence (Doc. 125);
- From the Court's November 5, 2012 Order (Doc. 170), denying Apotex's motion for a protective order regarding FDA correspondence (Doc. 147);
- From the Court's August 2, 2012 Claim Construction Order (Doc. 88);

Included herewith is payment of the filing fee (\$5.00) and the docketing fee (\$450.00) as required by 28 U.S.C. § 1917 and Federal Circuit Rule 52(a)(3)(A), respectively, and Federal Rule of Appellate Procedure 3(e).

Respectfully Submitted,

Dated: February 19, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2013, I caused a copy of the foregoing Notice of Appeal to be electronically filed with the Clerk of the Court using the ECF system in case number **1:10-CV-681**, which will send notification of such filing to the following attorneys of record:

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