

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT CLARKSBURG**

IN RE: AFLIBERCEPT PATENT LITIGATION

MDL No. 1:24-MD-03103-TSK

**This Document Relates To:**  
No. 1:22-CV-61

**DEFENDANTS' NOTICE OF APPEAL**

Notice is hereby given that Defendants Biocon Biologics Inc. and Mylan Pharmaceuticals Inc. (collectively “Defendants”), by and through their undersigned counsel, hereby appeal to the United States Court of Appeals for the Federal Circuit from this Court’s Judgment in a Civil Action entered in the civil action captioned, *Regeneron Pharmaceuticals, Inc. v. Mylan Pharmaceuticals Inc. and Biocon Biologics Inc.*, Case No. 22-cv-00061-TSK, on June 11, 2024 (Dkt. 795, No. 22-CV-61) (the “June 11, 2024 Judgment”), and all other opinions, orders, rulings, findings, conclusions, determinations and judgments that were adverse to Defendants, including but not limited to aspects of the Memorandum Opinion and Order Following Bench Trial entered by this Court on December 27, 2023 (Dkt. 665, No. 22-CV-61) (“the December 27, 2023 Judgment”), and the June 21, 2024 Order for Injunctive Relief Against Biocon and Mylan (Dkt. 800, No. 22-CV-61).

Defendants originally filed a Protective Notice of Appeal on January 29, 2024 (Dkt. 677, No. 22-CV-61), appealing the December 27, 2023 Judgment. Defendants emphasized that they did not believe that the December 27, 2023 Judgment was a final, appealable judgment at that time, and noted their intent to “file a subsequent notice of appeal” “[w]hen the District Court enters an appealable judgment under [Federal] Rule [of Civil Procedure] 54(b).” (Dkt. 677, No. 22-CV-

61, at 1-2). Agreeing with Defendants, the Federal Circuit ultimately dismissed the protective appeal for lack of jurisdiction at that time. *See Regeneron Pharmaceuticals, Inc. v. Mylan Pharmaceuticals Inc. and Biocon Biologics Inc.*, Appeal No. 2024-1402, Dkt. No. 26 (Fed. Cir. Apr. 12, 2024).

The June 11, 2024 Judgment resolves all previous issues raised during the protective appeal through its entry of final judgment pursuant to Federal Rule of Civil Procedure 54(b) for Counts 12, 17, and 21. As such, Defendants' appeal is now jurisdictionally appropriate. This notice of appeal does not deprive the District Court of jurisdiction over this action for all pending issues not contemplated by the June 11, 2024 Judgment and/or the December 27, 2023 Judgment.

Date: June 21, 2024

STEPTOE & JOHNSON PLLC

/s/ Gordon H. Copland

Gordon H. Copland (WVSB #828)  
William J. O'Brien (WVSB #10549)  
400 White Oaks Boulevard  
Bridgeport, WV 26330  
(304) 933-8162  
gordon.copland@steptoe-johnson.com  
william.obrien@steptoe-johnson.com

*Of Counsel (admitted pro hac vice):*

William A. Rakoczy  
Deanne M. Mazzochi  
Heinz J. Salmen  
Eric R. Hunt  
Neil B. McLaughlin  
Lauren M. Lesko  
Jake R. Ritthamel  
RAKOCZY MOLINO MAZZOCHI SIWIK LLP  
6 W. Hubbard St., Suite 500  
Chicago, IL 60654  
(312) 527-2157

wrakoczy@rmmslegal.com  
dmazzochi@rmmslegal.com  
hsalmen@rmmslegal.com  
ehunt@rmmslegal.com  
nmclaughlin@rmmslegal.com  
llesko@rmmslegal.com  
jritthamel@rmmslegal.com

*Attorneys for Defendants Mylan Pharmaceuticals  
Inc. and Biocon Biologics Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 21, 2024, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF system, which will send notice of the filing to all counsel of record for all parties.

STEPTOE & JOHNSON PLLC

**/s/ Gordon H. Copland**

Gordon H. Copland (WVSB #828)

William J. O'Brien (WVSB #10549)

400 White Oaks Boulevard

Bridgeport, WV 26330

(304) 933-8162

gordon.copland@steptoe-johnson.com

william.obrien@steptoe-johnson.com

*Attorneys for Defendants Mylan Pharmaceuticals  
Inc. and Biocon Biologics Inc.*