

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

**BONE CARE INTERNATIONAL LLC)
and GENZYME CORPORATION,)**

Plaintiffs,)

v.)

**PENTECH PHARMACEUTICALS,)
INC., and COBREK)
PHARMACEUTICALS, INC.)**

Defendants.)

Civil Action No. 08-cv-1083

JUDGE DOW

MAGISTRATE JUDGE ASHMAN

DEFENDANTS’ MOTION FOR ENTRY OF JUDGMENT

Defendants Pentech Pharmaceuticals, Inc. and Cobrek Pharmaceuticals, Inc., move this Court to enter a Final Judgment in the above-captioned matter as to U.S. Patent No. 5,602,116 (“the ‘116 patent”), and in support of this Motion, state as follows:

1. On March 22, 2012, this Court issued findings of fact and conclusions of law pursuant to Fed.R.Civ.P. 52(a) where the Court held claim 7 of the patent-in-suit, *i.e.*, the ‘116 patent, to be valid and enforceable.

2. Defendants desire to appeal the Court’s decision upholding validity and enforceability of the ‘116 patent.

3. To initiate the appeal process, Defendants must file a notice of appeal under Fed.R.App.P. 3(a). According to Rule 3(a), the notice of appeal must be filed “within the time allowed by Rule 4” of the Federal Rules of Appellate Procedure.

4. Under Fed.R.App.P. 4(a)(1)(A), the notice of appeal must be filed “within 30 days after the judgment or order appealed from is entered.”

5. Although the Court has issued findings of fact and conclusions of law in the above captioned case, the Court has not yet entered final judgment. Were Defendants to file a notice of appeal prior to entry of final judgment, their notice would be “treated as filed on the date of and after the entry.” Fed.R.App.P. 4(a)(2). In other words, the clock for the appeal process can only start upon entry of final judgment.

6. The ‘116 patent expires in 2014. Defendants are eager to begin the briefing schedule, *etc.*, en route to a decision by the Court of Appeals for the Federal Circuit.

Accordingly, Defendants respectfully request that this Court enter final judgment in the above-captioned case.

Dated: March 30, 2012

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Counterclaim-Plaintiffs, Pentech Pharmaceuticals,
Inc., and Cobrek Pharmaceuticals, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of March, 2012, a true and correct copy of **DEFENDANTS' MOTION FOR ENTRY OF JUDGMENT** was filed electronically. Notice of this filing will be sent to the following by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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