

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ELYSIUM HEALTH, INC.  
Petitioner,  
v.

TRUSTEES OF DARTMOUTH COLLEGE,  
Patent Owner.

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*Inter Partes* Review No. IPR2017-01795  
U.S. Patent No. 8,383,086 B2

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**PETITIONER'S NOTICE OF APPEAL**

Pursuant to 35 U.S.C. §§ 141(c) and 142 and 37 C.F.R. § 90.2(a) and 90.3, Petitioner Elysium Health, Inc. hereby appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board's Final Written Decision, entered January 16, 2019 (Paper 39), and from all underlying and related findings, orders, decisions, rulings, and opinions that are adverse to Petitioner.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(ii), Petitioner further indicates that the issues on appeal include, but are not limited to:

- the Board's determination that claim 2 of U.S. Patent No. 8,383,086 (the '086 patent) is not unpatentable under 35 U.S.C. § 102 over Goldberger et al., *A Study of the Blacktongue-Preventative Action of 16 Foodstuffs, with Special Reference to the Identity of Blacktongue of Dog and Pellagra of Man*, 43 PUB. HEALTH REPORTS 1785 (1928);
- the Board's determination that claim 2 of the '086 patent is not unpatentable under 35 U.S.C. § 102 over Goldberger and Tanner, *A Study of the Treatment and Prevention of Pellagra*, 39 PUB. HEALTH REPORTS 87 (1924); and
- the Board's claim construction of the term "is isolated" recited in claim 2 of the '086 patent.

Petitioner further reserves the right to challenge any finding or determination supporting or relating to the issues above, and to challenge other issues decided adversely to Petitioner.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a), this Notice is being filed with the Director of the United States Patent and Trademark Office, and a copy of this Notice is being concurrently filed with the Patent Trial and Appeal Board. In addition, a copy of this Notice and the required docketing fees are being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit via CM/ECCF.

Dated: March 6, 2019

Respectfully submitted,

/Brendan T. Jones/

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on March 6, 2019, in addition to being filed and served electronically through the Board's E2E System, a true and correct copy of the foregoing "PETITIONER'S NOTICE OF APPEAL," was served on the Director of the United States Patent and Trademark Office, via Express overnight delivery to the following address:

Office of the General Counsel  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

The undersigned hereby certifies that on March 6, 2019 a true and correct copy of the foregoing "PETITIONER'S NOTICE OF APPEAL," and the filing fee, were filed with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, via CM/ECF.

The undersigned hereby certifies that on March 6, 2019 a copy of the foregoing "PETITIONER'S NOTICE OF APPEAL," was served by delivering a copy via the delivery method indicated to the attorneys of record for the Patent Owner as follows:

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