

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAS INSTITUTE, INC.  
Petitioner

v.

COMPLEMENTSOFT, LLC  
Patent Owner

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Case No. IPR2013-00226  
U.S. Patent No. 7,110,936

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**PETITIONER SAS INSTITUTE, INC.'S NOTICE OF APPEAL**

Director of the United States Patent and Trademark Office  
c/o Office of the General Counsel  
Madison Building East, 10B20  
600 Dulany Street  
Alexandria, VA 22314-5793

Pursuant to 37 C.F.R. § 90.2(a), notice is hereby given that Petitioner SAS Institute, Inc. (“SAS”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“PTAB”) entered on August 6, 2014 (Paper No. 38), the Decision on Request for Rehearing entered on November 10, 2014 (Paper No. 40), and from all underlying orders, decisions, rulings and opinions, including, without limitation the Decision on Institution of *Inter Partes* Review entered on August 12, 2013 (Paper No. 9).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), SAS states that the issues on appeal include, but are not limited to: (1) the PTAB’s decision that SAS did not meet its burden of proving by a preponderance of the evidence that claim 4 of U.S. Patent No. 7,110,936 (“the ‘936 patent”) is unpatentable; (2) the PTAB’s claim constructions, including the construction of the claim term “data flows,” among others; (3) the PTAB’s adoption of an entirely new construction for the claim term “data flows” in the Final Written Decision, and the PTAB’s consequent error in applying that new claim construction to determine that SAS had not shown claim 4 to be unpatentable in view of the evidence, including the expert testimony; (4) the

PTAB's error under 35 U.S.C. § 318(a) in failing to issue a final written decision with respect to the patentability of all the '936 patent claims challenged by SAS in the *inter partes* review petition, including claims 2 and 11-16 of the '936 patent; (5) the PTAB's denial of SAS's Request for Rehearing (Paper No. 39), including its determination that the construction of the term "data flows" adopted in the Final Written Decision was not erroneous, and its determination that SAS was not prejudiced by the PTAB's adoption of a new construction of "data flows" for the first time in the Final Written Decision; and (6) any finding or determination supporting or relating to those issues, as well as all other issues decided adversely to SAS in any orders, decisions, rulings and opinions.

In addition to this submission, this Notice of Appeal is being filed with the Patent Trial and Appeal Board and with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Date: January 8, 2015

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*Counsel For Petitioner,*  
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**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that, in addition to being filed and served electronically through the Board's PRPS System, the foregoing PETITIONER SAS INSTITUTE INC.'S NOTICE OF APPEAL was filed and served by hand on this 8<sup>th</sup> day of January, 2015, with the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office  
c/o Office of the General Counsel  
Madison Building East, 10B20  
600 Dulany Street  
Alexandria, VA 22314-5793

I also hereby certify that three (3) true and correct copies of the foregoing PETITIONER SAS INSTITUTE INC.'S NOTICE OF APPEAL were filed by hand on this 8<sup>th</sup> day of January, 2015, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit  
717 Madison Place, N.W., Suite 401  
Washington, DC 20005

I further hereby certify that on this 8<sup>th</sup> day of January, 2015, a true and correct copy of the foregoing PETITIONER SAS INSTITUTE INC.'S NOTICE OF APPEAL was served, in accordance with the parties' electronic service agreement, by electronic mail upon the following counsel for Patent Owner ComplementSoft, LLC.:

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