

For the Patent Owner
Lead counsel: Richard Neifeld, Reg. No. 35,299
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Paper No. __

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AVX CORPORATION

Petitioner

v.

GREATBATCH, LTD

Patent Owner

Case IPR2014-00697

Patent 5,905,627

PATENT OWNER NOTICE OF APPEAL

1 Pursuant to 35 USC 141 and 142, and 37 CFR 90.2, 104.2, and 42.6 patent
2 owner, Greatbatch Ltd. (herein after Greatbatch), gives notice that Greatbatch is
3 dissatisfied with the final decision of the Patent Trial and Appeal Board (PTAB)
4 and appeals to the United States Court of Appeals for the Federal Circuit. This
5 appeal is from the decision on rehearing (paper 60) of the final written decision
6 (paper 57) by the Patent Trial and Appeal Board (PTAB) in *inter partes* review
7 IPR2014-00697, and from all orders, decisions, rulings, and opinions underlying
8 the final written decision.

9 Greatbatch is dissatisfied with the final decision's orders in paper 57, pages
10 27 and 28 (1) holding claims 1, 2, 4, 6, 7, 9, 11, 13–20, 23, 25, and 26 of the '627
11 patent unpatentable and (2) denying Greatbatch's motion to exclude.

12 Greatbatch is dissatisfied with the PTAB's decision denying Greatbatch
13 motion for supplemental information (paper 54).

14 As required by 37 CFR 90.2(a)(3)(ii), Greatbatch provides a brief statement
15 of the issues in order to allow the Director to determine whether to exercise the
16 right to intervene in the appeal pursuant to 35 USC 143.

17 An issue is whether the PTAB concluded, improperly, that petitioner, AVX
18 Corporation (herein after AVX), has shown by a preponderance of the evidence

1 that claims 1, 2, 4, 6, 7, 9, 11, 13–20, 23, 25, and 26 of the '627 patent are
2 unpatentable.

3 An issue is whether the PTAB abused its discretion, by improperly denying
4 Greatbatch's motion to exclude.

5 An issue is whether the PTAB abused its discretion, in violation of 37 CFR
6 42.23, by improperly relying upon new evidence and argument that exceeded the
7 scope of a proper reply in holding claims unpatentable.

8 An issue is whether the PTAB abused its discretion, in violation of 37 CFR
9 42.123(c), by improperly denying Greatbatch's motion for supplemental
10 information.

11 An issue is whether the PTAB abused its discretion and violated
12 constitutional due process, by relying upon testimony not subject to cross-
13 examination (see footnote 1 in paper 54), in denying Greatbatch's motion for
14 supplemental information.

15 An issue is whether the PTAB abused its discretion, by improperly assigning
16 weight to evidence, in holding claims unpatentable.

17 Greatbatch reserves the right to identify other issues in its docketing
18 statement and brief, as the case may be.

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3 /s/ Richard Neifeld, Reg. No. 35,299, Lead counsel for Patent Owner
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1 **COMPLIANCE WITH 37 CFR 90.2(a)**

2 I hereby certify that:

3 (1) Pursuant to 37 CFR 90.2(a)(1) and 104.2, I am delivering a copy of this
4 document, by hand, to the Director of the United States Patent and Trademark
5 Office, at the following address:

6 Director of the United States Patent and Trademark Office

7 c/o Office of the General Counsel

8 United States Patent and Trademark Office

9 Madison Building East, Room 10B20

10 600 Dulany Street

11 Alexandria, VA 22314

12 (2) Pursuant to 37 CFR 90.2(a)(1) and 42.6(b)(1), I am electronically filing a
13 copy of this document, via PRPS, with the PTAB;

14 (3) Pursuant to 37 CFR 90.2(a)(2)(i), Fed. Cir. R. 15, and pursuant to
15 guidance I received by speaking with a person in Court's Clerk's Office on
16 3/4/2016, that I must file the notice of appeal through CM/ECF, I am filing a copy
17 of this document via the Court's CM/ECF; and

18 (4) Pursuant to 37 CFR 90.2(a)(2)(ii), Fed. Cir. R. 52(a)(3)(A), I am paying
19 the fee amount of \$500 for the appeal, and pursuant to

1 [http://www.cafc.uscourts.gov/sites/default/files/cmecf/attorney%20user%20guide](http://www.cafc.uscourts.gov/sites/default/files/cmecf/attorney%20user%20guide%20pay_gov2.pdf)
2 [%20pay_gov2.pdf](http://www.cafc.uscourts.gov/sites/default/files/cmecf/attorney%20user%20guide%20pay_gov2.pdf), introduction, and the instructions therein, and pursuant to
3 guidance I received by speaking with a person in Court's Clerk's Office on
4 3/4/2016 that I must pay the fee using pay.gov, I am effecting payment of the fee
5 via pay.gov.

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1 **CERTIFICATE OF SERVICE IN COMPLIANCE WITH 37 CFR 42.6(e)(4)**
2 **and Fed. R. App. P. 25(c)(1)(D)**

3
4 Agreements on Service: "Service via email is fine as long as an
5 acknowledgement is returned confirming receipt", per lead counsel for the
6 petitioner, Paul Hunter, 10/9/2014.

7 Pursuant to Fed. R. App. P. 25(c)(1)(D), counsel for AVX consented to
8 email service in this appeal "on the condition that in addition to pdf copies of
9 filings served by email, we also receive the paper copies of the briefs and appendix
10 (commensurate to the copies required to be served with the court) required under
11 the rules.", per counsel for petitioner, Mike Houston, on 3/4/2016.

12 I hereby certify that I have served a complete copy of this document by
13 email, on petitioner's lead and back-up counsels, at the addresses listed below:

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