

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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**SYMANTEC CORPORATION**

Petitioner

v.

**THE TRUSTEES OF COLUMBIA UNIVERSITY  
IN THE CITY OF NEW YORK**

Patent Owner

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Case IPR2015-00375

Patent No. 8,074,115

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**PATENT OWNER THE TRUSTEES OF  
COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK'S  
NOTICE OF APPEAL**

via mail

Director of the United States Patent & Trademark Office  
c/o Office of the General Counsel  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

via PTAB E2E

Patent Trial and Appeal Board

via CM/ECF

United States Court of Appeals for the Federal Circuit

Pursuant to 35 U.S.C. §§ 141(c), 142, 319; 5 U.S.C. §§ 702, 703; and 37 C.F.R. §§ 90.2(a), 90.3(a), Patent Owner, the Trustees of Columbia University in the City of New York ("Columbia") hereby appeals to the United States Court of Appeals for the Federal Circuit from the final written decision entered on June 30, 2016 (Paper 47) ("the Final Written Decision") and all underlying orders, decisions, rulings and opinions which adversely affect Columbia, including but not limited to the Decision Instituting IPR.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Columbia further indicates that the issues on appeal include but are not limited to:

- whether the Patent Trial and Appeal Board (the "Board") erred in ruling that Claims 22, 25-29, 32, 35-39, and 42 of U.S. Patent No. 8,074,115 ("the '115 Patent") are unpatentable under 35 U.S.C. § 102(e) by U.S. Patent Publication No. 2005/0108562 ("Khazan");
- whether the Board erred in ruling Claims 1, 4-8, 11, 14-18, and 21 of the '115 Patent are unpatentable under 35 U.S.C. § 103(a) over Khazan and U.S. Patent No. 5,440,723 ("Arnold");
- whether the Board erred in ruling Claims 3, 13, 24, and 34 of the '115 Patent are unpatentable under 35 U.S.C. § 103(a) over Khazan, Arnold and U.S. Patent No. 8,108,929 ("Agrawal");

- whether the Board erred in its construction and application of the construction for the term "model of function calls" as appearing in all claims;
- whether the Board erred in its construction and application of the construction of the term "the model reflects attacks against the at least a part of the program" as appearing in claims 8, 18, 29, and 39;
- whether the Board erred in its construction and application of the construction for the term "creating a combined model from at least two models created at different times" in claims 3, 13, 24 and 34;
- whether the Board erred in its finding that the cited art discloses the term "the model reflects normal activity of the at least a part of the program," as it appears in claims 7, 17, 28 and 38;
- whether the Board erred in its finding that the cited art discloses the term "the model reflects attacks of the at least a part of the program," as it appears in claims 8, 18, 29 and 39;
- whether the Board erred in its application of the construction for the term "application community" as applicable to claims 1-21;
- whether the Board erred in its application of the construction for the term "anomalous" as applicable to all claims;

- whether the Board erred in finding that cited art discloses the limitation "modifying a program . . . ." or "modifies a program . . . ." as applicable to claims 22-42;
- whether the Board erred in its finding that the cited art discloses an "emulator" as construed by the Board;
- whether the Board erred in its finding that the cited art discloses "notifying/notifies . . . of the anomalous function call" as applicable to claims 1-21;
- the Board's consideration of the record evidence, including but not limited to expert testimony;
- the Board's analysis regarding motivation for and reasons to combine in support of its obviousness conclusion; and
- all findings or determinations supporting or relating to those issue, as well as any other issues decided adversely to Columbia in any orders, decisions, rulings and opinions.

Simultaneous with this submission, a copy of this Notice of Appeal is being filed electronically through the Board's End to End (PTAB E2E) electronic filing system as well as mailed by Express Mail to Director of the United States Patent & Trademark Office, c/o Office of the General Counsel, at P.O. Box 1450, Alexandria, VA 22313-1450. In addition, Appellant Columbia files a copy of the

Notice of Appeal transmitted to the Board on August 23, 2016, the \$500 filing fee prescribed by 28 U.S.C. § 1913, and courtesy copies of the Final Written Decision with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

/ Hong A. Zhong /

Date: August 23, 2016

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. 42.6, the undersigned certifies that on August 23, 2016, a copy of the foregoing document was served upon the following, by ELECTRONIC MAIL:

Brian M. Hoffman  
bhoffman@fenwick.com

Michael Sacksteder  
msacksteder@fenwick.com

Further, a copy of the foregoing document, a \$500 filing fee and courtesy copies of the Final Written Decision and Institution Decision (as needed) are being paid and e-filed through CM/ECF on August 23, 2016 with the Clerk's Office of the United States Court of Appeal for the Federal Circuit located at 717 Madison Place, N.W., Suite 401, Washington DC 20005.

Additionally, pursuant to 37 C.F.R. §§ 90.2(a) and 104.2(b), a copy of the foregoing document and a copy of the Final Written Decision and Institution Decision and a Federal Circuit Form 5 are being mailed to Director of the United States Patent and Trademark Office, c/o Office of the General Counsel, P.O. Box 1450, Alexandria, VA 22313-1450 as well as being caused to be hand delivered

during business hours to the Office of the General Counsel, 10B20, Madison

Building East, 600 Dulany Street, Alexandria, Virginia 22314-5793.

/s/ Susan M. Langworthy /