

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENERAL ELECTRIC CO.

Petitioner

v.

UNIVERSITY OF VIRGINIA PATENT FOUNDATION

Patent Owner

Case No. IPR2016-00357

Patent No. RE44,644

**PATENT OWNER'S NOTICE OF APPEAL TO THE
U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Pursuant to 37 C.F.R. § 90.2(a), Patent Owner University of Virginia Patent Foundation hereby appeals the Board's Final Written Decision and all underlying orders, decisions, rulings, and opinions regarding U.S. Patent No. RE44,644 (the "'644 patent") in this matter to the United States Court of Appeals for the Federal Circuit. The Board issued its Final Written Decision on June 21, 2017 and denied Patent Owner's Request for Rehearing on September 19, 2017.

For purposes of 37 C.F.R. § 90.2(a)(3)(ii), the issues on appeal may include one or more of the following, as well as any underlying findings, determinations, rulings, decisions, opinions, or other related issues:

(1) Whether J. P. Mugler III et al., *Three-Dimensional T2-Weighted Imaging of the Brain Using Very Long Spin-Echo Trains*, Proceedings of the Int'l Soc. for Magnetic Resonance in Med., 8th Meeting (Apr. 2000) (Ex. 1002) ("Mugler 2000") is prior art;

(2) Whether the '644 patent is entitled to the priority date of U.S. Provisional Application No. 60/257,182 ("182 Application");

(3) Whether the '182 Application contains sufficient written description support for the "Challenged Claims" (claims 75, 76, 78–82, 84–92, 94–102, 107–109, 111, 113, 114, 115, 118, 128–130, 132–136, 138–140, 157, 158, 169–178, 180–184, 186–194, 196–204, 209–211, 213, 215–217, 220, 230–232, 234–238, 240, 241, and 254–260);

(4) Whether claims 75, 76, 78–82, 84–92, 94–96, 107, 111, 139, 140, 157, 158, 169–178, 180–184, 186–194, 196–198, 209, 213, 241, and 254–260 are anticipated under 35 U.S.C. § 102(b) by Mugler 2000;

(5) Whether claims 75, 76, 78–82, 84–92, 94–102, 107–109, 111, 113, 114, 118, 128–130, 132–134, 139, 140, 157, 158, 169–178, 180–184, 186–194, 196–204, 209–211, 213, 215, 216, 220, 230–232, 234–236, 241, and 254–260 are obvious under 35 U.S.C. § 103(a) in view of Mugler 2000 and “Mugler Overview”¹;

(6) Whether claims 115 and 217 are obvious under 35 U.S.C. § 103(a) in view of Mugler 2000, Mugler Overview, and “Hennig 1986”²;

(7) Whether claims 135, 136, 237 and 238 are obvious under 35 U.S.C. § 103(a) in view of Mugler 2000, Mugler Overview, and Rydberg³;

(8) Whether claims 138 and 240 are obvious under 35 U.S.C. § 103(a) in view of Mugler 2000, Mugler Overview, and Stuber⁴;

¹ John P. Mugler III, *Overview of MR Imaging Pulse Sequences*, in *MAGNETIC RESONANCE IMAGING CLINICS OF NORTH AMERICA: PHYSICS OF MR IMAGING* 661–697 (Scott A. Mirowitz and J. Paul Finn eds., 1999).

² J. Hennig et al., *RARE Imaging: A Fast Imaging Method for Clinical MR*, 3 *MAGNETIC RESONANCE IN MED.* 823–833 (1986).

³ John N. Rydberg et al., *Comparison of dual-echo breathhold fast spin echo and dual-echo conventional T2-weighted spin echo imaging of liver lesions*, *Proceedings of the Int’l Soc. for Magnetic Resonance in Med.*, 5th Meeting (Apr. 1997).

⁴ Matthias Stuber et al., *Submillimeter Three-dimensional Coronary MR Angiography with Real-time Navigator Correction: Comparison of Navigator Locations*, 212 *RADIOLOGY* 579–587 (1999)

(9) Whether the Board reached its decision on grounds not articulated in GE's Petition and/or improperly raised for the first time in GE's Reply; and

(10) Whether the Final Written Decision should be found unlawful due to any of the statutory reasons set forth in 5 U.S.C. § 706(2).

With this submission, Patent Owner is filing a copy of this Notice of Appeal with the Director of the United States Patent and Trademark Office. A copy of this Notice is also being concurrently filed with the Patent Trial and Appeal Board. In addition, a copy of this Notice, along with the required docketing fees, are being filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit via CM/ECF.

Date: November 17, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE UNDER 37 CFR § 42.6(e)

I hereby certify that a true copy of the foregoing **PATENT OWNER'S NOTICE OF APPEAL TO THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT** has been served in its entirety this 17th day of November, 2017 on Petitioner's lead and back-up counsel, as follows:

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CERTIFICATE OF FILING

I hereby certify that the foregoing **PATENT OWNER'S NOTICE OF APPEAL TO THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT** is being filed pursuant to 37 CFR §§ 90.2 and 104.2 by certified mail on this 17th day of November, 2017 as follows:

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

I hereby certify that the foregoing **PATENT OWNER'S NOTICE OF APPEAL TO THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT**, and the required filing fee, are being filed with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, via CM/ECF.

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