

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ELECTRONIC ARTS INC. and EA DIGITAL ILLUSIONS CE AB,
Petitioner,

v.

TERMINAL REALITY, INC.,
Patent Owner.

Case No. IPR2016-00928
Patent No. 6,362,822 B1

Before BRYAN F. MOORE, BARBARA A. PARVIS, and DANIEL N.
FISHMAN, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

PETITIONER'S NOTICE OF APPEAL

Pursuant to 35 U.S.C. § 142 and in accordance with 37 C.F.R. § 90.2, Petitioner hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (the “Board”) entered on October 23, 2017 (Paper 48), and from all underlying orders, decisions, rulings, and opinions regarding U.S. Patent No. 6,362,822 entered in the above-captioned proceeding before the Board.

For the limited purpose of providing the Director of the United States Patent and Trademark Office with the information requested under 37 C.F.R. § 90.2(a)(3)(ii), Petitioner submits that the appeal will address all aspects of the Board’s decision concluding that Petitioner has not demonstrated, by a preponderance of the evidence, that claims 1-20 and 39-48 of U.S. Patent No. 6,362,822 are unpatentable.

In particular, but without limitation, this appeal will address issues including the proper construction of claim terms, the application of the proper construction to the cited prior art (Segal, McReynolds, and Foley), the proper interpretation of the cited prior art, including but not limited to, whether it must explicitly contain certain teachings, the level of ordinary skill in the art, including but not limited to, the background knowledge that a skilled artisan possesses in evaluating the relevant prior art, the proper application of the legal doctrine of obviousness, as

announced by *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007), and the weight given to the evidence of record, including expert testimony. Petitioner further reserves the right to challenge any finding or determination supporting or relating to the issues listed above and to challenge any other issues decided against Petitioner in any order, decision, ruling, or opinion by the Board in the above-captioned proceeding.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. §§ 90.2(a) and 90.3(a), this Notice is being timely filed with the Director of the United States Patent and Trademark Office within 63 days of the Board's Final Written Decision, and a copy of this Notice is being concurrently filed with the Patent Trial and Appeal Board. In addition, a copy of this Notice is being filed with the Clerk of the United States Court of Appeals for the Federal Circuit, along with an electronic copy of the Notice and the required docketing fee of \$500, which are being served electronically on the Court by CM/ECF and pay.gov.

Date: December 20, 2017

Respectfully submitted,

By  _____

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CERTIFICATE OF SERVICE

Certificate of Filing in Compliance with 37 C.F.R. § 90.2(a)(1)

I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board End to End (PTAB E2E) system, the original version of this PETITIONER'S NOTICE OF APPEAL was filed by hand delivery on this 20th day of December, 2017, with the Director of the United States Patent and Trademark Office, at the following address:

Office of the General Counsel

Director of the United States Patent and Trademark Office

10B20, Madison Building East

600 Dulany Street

Alexandria, Virginia 22314

Certificate of Filing in Compliance with 37 C.F.R. § 90.2(a)(2)

I also hereby certify that a true and correct copy of the above-captioned PETITIONER'S NOTICE OF APPEAL and the applicable filing fee is being filed via the electronic filing system, CM/ECF, and pay.gov, with the Clerk of the United States Court of Appeals for the Federal Circuit on this 20th day of December, 2017, and one true and correct paper copy of the foregoing was filed by hand delivery on this 20th day of December, 2017, with the Clerk of the United States Court of Appeals for the Federal Circuit, at the following address:

Hon. Peter R. Marksteiner, Circuit Executive and Clerk of Court

United States Court of Appeals for the Federal Circuit

717 Madison Place, NW, Suite 401

Washington, DC 20439

Certificate of Filing in Compliance with 37 C.F.R. § 42.6

I hereby certify that on this 20th day of December, 2017, the foregoing PETITIONER'S NOTICE OF APPEAL was served via electronic mail by agreement of the parties upon the following counsel of record for Patent Owner:

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