

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**MICROSOFT CORPORATION,**  
Petitioner,

v.

**SMART SKINS LLC,**  
Patent Owner.

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Case IPR2016-00404  
Patent 7,079,864 B2

**PATENT OWNER'S NOTICE OF APPEAL**

Director of the United States Patent and Trademark Office  
c/o Office of the Solicitor  
United States Patent and Trademark Office  
Mail Stop 8  
P.O. Box 1450  
Alexandria, VA 22313-1450

*Filed Electronically via PTAB E2E*

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner Smart Skins LLC appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board entered on June 21, 2017 (Paper No. 27)<sup>1</sup> in IPR2016-00404, and from all underlying findings, determinations, rulings, opinions, orders, and decisions regarding the *inter partes* review.

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

- (1) the final written decision of the Patent Trial and Appeal Board finding claims 1, 12, 13, 15, 23, and 24 of U.S. Pat. No. 7,079,864 unpatentable, the factual bases underlying the Board's legal conclusions, and the sufficiency of the Board's analysis and fact-findings regarding the same;
- (2) any other issues decided adversely to Patent Owner in any orders, decisions, rulings, and/or opinions; and
- (3) whether *inter partes* review violates the Constitution, including but not limited to by extinguishing private property rights through a non-

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<sup>1</sup> Petitioner requested partial rehearing of the Board's Final Written Decision on July 21, 2017 (Paper No. 29), resetting the time for appeal to no later than 63 days after action on that request. 37 C.F.R. 90.3(b)(1). The Board denied Petitioner's request for rehearing on November 21, 2017 (Paper No. 30).

Article III forum without a jury or by failing to comport with Article III and the Seventh Amendment.

This Notice of Appeal is being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit. Concurrently, a copy of this Notice of Appeal is being filed with the Patent Trial and Appeal Board.

Dated: January 23, 2018

Respectfully submitted,

/s/ Steven M. Bauer  
Steven M. Bauer  
Reg. No. 31,481  
Proskauer Rose LLP  
Attorney for Patent Owner

**CERTIFICATION OF FILING**

The undersigned hereby certifies that Patent Owner's Notice of Appeal was filed electronically through the Patent Trial and Appeal Board's End to End System (PTAB E2E) on January 23, 2018. A copy of this Notice of Appeal was also sent on January 23, 2018 by Priority mail to 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 Solicitor  
United States Patent and Trademark Office  
Mail Stop 8  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dated: January 23, 2018

Respectfully submitted,

/s/ Steven M. Bauer  
Steven M. Bauer  
Reg. No. 31,481  
Proskauer Rose LLP  
Attorney for Patent Owner

**CERTIFICATION OF FILING**

The undersigned hereby certifies that Patent Owner's Notice of Appeal was filed electronically through the United States Court of Appeals for the Federal Circuit's CM/ECF system on January 23, 2018. A copy of this Notice of Appeal was also sent on January 23, 2018 by Priority mail to the Clerk of the Court of Appeals for the Federal Circuit at the following address:

Clerk of Court  
United States Court of Appeals for the Federal Circuit  
Room 401  
717 Madison Place, N.W.  
Washington, D.C. 20439

Dated: January 23, 2018

Respectfully submitted,

*/s/ Steven M. Bauer*  
Steven M. Bauer  
Reg. No. 31,481  
Proskauer Rose LLP  
Attorney for Patent Owner

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*Inter Partes* Review Case No. IPR2016-00404

*Inter Partes* Review of: U.S. Patent No. 7,079,864 B2

**CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6(e)**

Dear Sir:

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on January 23, 2018, I caused a complete copy of Patent Owner's Notice of Appeal, to be served on the Petitioner of IPR2016-00404 via electronic mail at:

john.vandenberg@klarquist.com  
todd.siegel@klarquist.com

By: /s/ Gerald E. Worth  
Gerald E. Worth  
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