

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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VENTEX CO., LTD.,  
Petitioner,

v.

COLUMBIA SPORTSWEAR NORTH AMERICA, INC.,  
Patent Owner.

Case No. IPR2017-00789  
Patent No. 8,453,270

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**PETITIONER'S NOTICE OF APPEAL**

Pursuant to 35 U.S.C. § 142 and in accordance with 37 C.F.R. § 90.2, Petitioner Ventex Co., Ltd. (“Ventex”) hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Board’s Order Dismissing the Petition, Vacating Institution of *Inter Partes* Review, and Terminating *Inter Partes* Review (“Order”) entered on January 24, 2019 (Paper 148).

Decisions under 35 U.S.C. § 315(b) are reviewable under *Wi-Fi One, LLC v. Broadcom Corp.*, 878 F.3d 1364, 1367 (Fed. Cir. 2018) (en banc) (“We therefore hold that the time-bar determinations under § 315(b) are appealable.”).

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), Ventex expects that the issues on appeal may include the following, along with any underlying findings, determinations, rulings, opinions, orders, decisions, or other related issues:

- The Board’s determination that Ventex’s IPR Petition is time-barred under 35 U.S.C. § 315(b);
- The Board’s determination that Seirus Innovative Accessories (“Seirus”) is a real party in interest; and
- The Board’s determination that Ventex and Seirus are privies.

Ventex reserves the right to challenge any finding or determination supporting or relating to the issues listed above. Ventex also reserves the right to challenge any other issues decided against Ventex in any order, decision, ruling, or opinion by the Board in the above-captioned proceeding, including with respect to the pending Patent Owner's Motion for Sanctions filed December 14, 2018 (Paper 136).

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 Order, 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: March 22, 2019

Respectfully submitted,

COVINGTON & BURLING LLP

By     /David A. Garr/    

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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, PETITIONER'S NOTICE OF APPEAL was filed by hand delivery on this 22nd day of March, 2019, 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 22nd day of March, 2019, and one true and correct paper copy of the foregoing was filed by hand delivery on this 22nd day of March, 2019, 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**

Pursuant to 37 C.F.R. § 42.6, I hereby certify that the foregoing PETITIONER'S NOTICE OF APPEAL was served by email, by agreement of the parties, on the following counsel of record for patent owner.

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