

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC., ARRIS SOLUTIONS, INC., and
COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner

v.

REALTIME ADAPTIVE STREAMING, LLC.,
Patent Owner

Case IPR2018-01169
U.S. Patent No. 8,934,535

PATENT OWNER'S NOTICE OF APPEAL

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

Submitted Electronically via the PTAB E2E System

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner Realtime Adaptive Streaming, LLC (“Realtime”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“Board”) entered on January 10, 2020, in IPR2018-01169 (Paper No. 45) (“FWD”), and from all underlying findings, determinations, rulings, opinions, orders, and decisions regarding the inter partes review of U.S. Patent No. 8,934,535 (the “’535 patent”).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Realtime states that the issues on appeal may include: the Board’s determination that claims 1–14 of the ’535 patent have been shown to be unpatentable; the Board’s consideration of the expert testimony, prior art, and other evidence in the record; and the Board’s factual findings, conclusions of law, or other determinations supporting or related to those issues. Specifically, the issues on appeal may include the Board’s claim construction of the term “access profile” (FWD at 10–14); the Board’s findings about motivation to combine (*id.* at 21–24); and the Board’s findings about whether the obviousness combination satisfies all limitations of claims 1 and 14 (FWD at 25–31). The issues on appeal may also include constitutional and Appointments Clause issues implicated by the recent *Arthrex* and *Polaris* cases. *See Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019); *Polaris Innovations Ltd. v. Kingston Tech. Co., Inc.*, 792 Fed. Appx. 820 (Fed. Cir. Jan. 31, 2020).

This Notice of Appeal is being e-filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees. In addition, a copy of this Notice of Appeal is being filed simultaneously with the Patent Trial and Appeal Board.

Respectfully submitted,

Dated: March 10, 2020

/Philip X. Wang/

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))

The undersigned hereby certifies that the above document was served on March 10, 2020, by filing this document through the Patent Trial and Appeal Board End to End system as well as delivering a copy via electronic mail upon the following attorneys of record:

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A copy of this Notice of Appeal was also sent on March 10, 2020 by Federal Express
to the United States Patent and Trademark Office at the following address:

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