

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUBILANT DRAXIMAGE INC.,
Petitioner,

v.

BRACCO DIAGNOSTICS INC.,
Patent Owner.

Case IPR2018-01450
U.S. Patent No. 9,299,468

PATENT OWNER'S NOTICE OF APPEAL

Pursuant to 35 U.S.C. §§ 141, 142 and 319, and 37 C.F.R. § 90.2 and 90.3, Patent Owner Bracco Diagnostics Inc. (“Patent Owner”), hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision, entered February 6, 2020 (Paper 29), and from all underlying orders, decisions, rulings, and opinions regarding U.S. Patent No. 9,299,468 (“the ’468 patent”) entered in the above-captioned proceeding before the Patent Trial and Appeal Board (“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), Patent Owner submits that the appeal will address all aspects of the Board’s decision purporting to conclude that claims 21-23 of the ’468 patent are unpatentable. In particular, but without limitation, this appeal will address issues including whether Petitioner carried its burden to show that (1) claims 21 and 23 should be cancelled as anticipated under 35 U.S.C. § 102(b) by Ran Klein, Precise 82Rb Infusion System for Cardiac Perfusion Measurement Using 3D Positron Emission Tomography (2006) (“Klein”); and (2) claim 22 should be cancelled as obvious under 35 U.S.C. § 103(a) by Klein, U.S. Patent Application Publication No. US 2011/0178359 A1, and U.S. Patent Application Publication No. US 2008/0242915 A1; and (3) Bracco Diagnostics Inc., CardioGen-82 Infusion System User’s Guide, (rev. 07, 2004) qualifies as prior art to the ’468 patent. Patent Owner

IPR2018-01450

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 Patent Owner 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)(1), this Notice is being filed with the Director of the United States Patent and Trademark Office, and a copy of this Notice is being concurrently filed with the 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: April 8, 2020

Respectfully submitted,

By: /s/ Heath J. Briggs
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Counsel for Patent Owner

CERTIFICATE OF SERVICE

I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board End to End (PTAB E2E) system, the foregoing Patent Owner's Notice of Appeal is being filed by Express Mail on this 8th day of April, 2020, with the Director of 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 General Counsel
10B20, Madison Building East
P.O. Box 1450
Alexandria, Virginia 22314-1450

I also hereby certify that a true and correct copy of the above-captioned Patent Owner'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 8th day of April 2020. Pursuant to Administrative Order No. 20-01, a paper copy of this Notice of Appeal has not been filed with the Court of Appeals.

Pursuant to 37 C.F.R. § 42.6, I hereby certify that on this 8th day of April 2020, the foregoing Patent Owner's Notice of Appeal was served via electronic mail by agreement of the parties upon the following counsel of record for Petitioner:

IPR2018-01450

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