

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner

v.

QUALCOMM INC.,
Patent Owner

Case No. IPR2018-01281
Patent No. 8,768,865

PETITIONER'S NOTICE OF APPEAL
37 C.F.R. § 90.2(a)

Pursuant to 35 U.S.C. §§ 141(c) and 319, and 37 C.F.R. § 90.2(a), notice is hereby given that Petitioner Apple Inc. hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision in Case No. IPR2018-01281 entered February 24, 2020 (Paper 34) (“Final Written Decision”) by the Patent Trial and Appeal Board (“the Board”), and from all underlying orders, decisions, rulings, and opinions related thereto and included therein. This appeal is timely under 35 U.S.C. § 142, 37 C.F.R. § 90.3, and Rule 15(a)(1) of the Federal Rules of Appellate Procedure.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), the expected issues on appeal include, but are not necessarily limited to:

- (1) The Board’s decision that claims 4 and 23 of U.S. Patent No. 8,768,865 (Ex. 1001) were not shown to be unpatentable under 35 U.S.C. § 102(b) as anticipated by Y. Wang et al., *A Framework of Energy Efficient Mobile Sensing for Automatic User State Recognition*, Proceedings of the 7th International Conference on Mobile Systems, Applications and Services, pp. 179–92, Krakow, Poland, June 22–25, 2009 (Ex. 1005, “Wang”);
- (2) The Board’s interpretation of the limitations “wherein said second pattern is recognized in a reduced set of varying parameters derived from said monitored input signals in response, at least in part, to said fixing of

said subset of varying parameters” (claim 4) and “wherein said second pattern is associated with a reduced set of varying parameters derived from said monitored input signals due, at least in part, to fixing said subset of varying parameters” (claim 23), including the Board’s implicit construction of those limitations and their application to the prior art;

- (3) The Board’s interpretation of the prior art;
 - (4) The Board’s legal errors in undertaking the aforementioned obviousness analysis;
 - (5) The Board’s findings that conflict with the evidence of record or are otherwise not supported by substantial evidence;
 - (6) The Board’s failure to consider evidence of record fully and properly;
- and
- (7) all other issues decided adversely to Petitioner in any orders, decisions, ruling and opinion underlying or supporting the Final Written Decision.

Per 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a)(1), this notice is being filed with the Director of the U.S. Patent and Trademark Office, and a copy is also being filed with the Board. Per Federal Circuit Rule 15(a)(1) and 37 C.F.R. 90.2(a)(2), Petitioner is also sending a paper copy of this Notice of Appeal to the Clerk of the U.S. Court of Appeals for the Federal Circuit, and paying the fee set forth in Federal Circuit Rule 42.

Respectfully submitted,

Date: April 27, 2020

/W. Karl Renner/

W. Karl Renner, Reg. No. 41,265

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Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4) and 42.205(b), the undersigned certifies that on April 27, 2020, a complete and entire copy of this Petitioner's Notice of Appeal was provided via email to the Patent Owner by serving the correspondence address of record as follows:

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I hereby certify that, in addition to being filed electronically through the Board's E2E System, the original version of the foregoing Notice of Appeal was filed by hand on April 27, 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
Madison Building East, 1 OB20
600 Dulany Street
Alexandria, VA 22314-5793

I hereby certify that on April 27, 2020, a true and correct copy of the foregoing Notice of Appeal, along with a copy of the Institution Decision, was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
Washington, DC 20005

Respectfully submitted,

Date: April 27, 2020

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