

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

METRIS U.S.A., INC.,)	
METRIS N.V.,)	
METRIS IPR N.V., and)	
3-D SCANNERS LTD.,)	Civil Action No.: 08-cv-11187 (PBS)
)	
Plaintiffs,)	
)	
v.)	
)	
FARO TECHNOLOGIES, INC.,)	
)	
Defendant.)	

DEFENDANT FARO TECHNOLOGIES, INC.’S
NOTICE OF APPEAL

Notice is hereby given that pursuant to 28 U.S.C. § 1292(a) and (c)(1) and Fed. R. App. P. 4(a)(1) and (a)(5)(A), Defendant, Faro Technologies, Inc. (“Faro”), having received final judgment in its favor, appeals to the United States Court of Appeals for the Federal Circuit from the Court’s March 20, 2013 Final Judgment for that portion of the judgment relating to the prosecution of the U.S. Patent No. 6,611,617 (“the ‘617 Patent”) concerning the inequitable conduct (fraud) of the inventor and associated antitrust rulings.

Faro further appeals the exclusion of the evidence of the ‘617 Patent from the trial on the related U.S. Patent No. 7,313,264 (“the ‘264 Patent”), a continuation case to the ‘617 Patent, and appeals from all underlying findings, conclusions, cases, decisions, orders, and rulings decided adversely to Faro, including, but not limited to what is specified below:

- The District Court’s ruling of September 19, 2011 that dismissed Faro’s counterclaim of inequitable conduct as to the ‘264 Patent (Amended Findings of Fact, Conclusions of Law, and Order, Docket No. 332);

- The District Court's ruling of September 19, 2011, that dismissed Faro's counterclaims for antitrust, patent misuse, and for violation of Massachusetts state law (Amended Findings of Fact, Conclusions of Law, and Order, Docket No. 332);
- The District Court's ruling of March 2, 2012 that denied Faro's motion for limited additional claim construction (Memorandum and Order, Docket No. 348);
- The District Court's ruling of June 28, 2012, that dismissed without prejudice Faro's counterclaims of invalidity and unenforceability on the '617 Patent (Order, Docket No. 442);
- The District Court's ruling of June 28, 2012, that excluded testimony, arguments and/or evidence related to the '617 Patent to be used at trial (Order, Docket No. 442);
- The District Court's ruling of July 2, 2012 excluding the use of the '617 patent in Faro's opening statement at trial regarding the '617 Patent's unenforceability due to inequitable conduct (Order, Docket No. 446);
- The jury verdict entered on August 10, 2012, as to Faro's counterclaims of inventorship and ownership of the '264 Patent, failure to satisfy the written description requirement, and finding of infringement (Verdict, Docket No. 483);
- The District Court's ruling of January 23, 2013, denying Faro's renewed motion for judgment as a matter of law (Order, Docket No. 528); and
- The District Court's ruling of January 23, 2013, denying Faro's renewed motion that the '617 patent is unenforceable due to inequitable conduct (Order, Docket No. 528).

Faro specifically reserves its right to appeal any and all orders and rulings were the Court to ultimately enter any other final judgments against Faro.

Included herewith is payment of the filing fee (\$5.00) and the docketing fee (\$450.00), totaling \$455.00, as required by 28 U.S.C. § 1917, Federal Rule of Appellate Procedure (3(e), and the Federal Circuit Local Rule 52(a)(3)(A).

Dated: April 10, 2013

RESPECTFULLY SUBMITTED,

FARO TECHNOLOGIES, INC.

By: /s/ William J. Cass
William J. Cass, BBO# 552094
Andrew C. Ryan, BBO# 636622
Jo-Anne M. Kokoski, *pro hac vice*
CANTOR COLBURN LLP
20 Church Street, 22nd Floor
Hartford, CT 06103-3207
860-286-2929 (telephone)
860-286-0115 (facsimile)
wcass@cantorcolburn.com
ryan@cantorcolburn.com
jkokoski@cantorcolburn.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record via the Court's electronic filing system on the 10th day of April, 2013.

/s/ William J. Cass
William J. Cass, Esq.