

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BRIGHT HOUSE NETWORKS, LLC,
WIDEPENWEST FINANCE, LLC, KNOLOGY OF FLORIDA, INC.,
And BIRCH COMMUNICATIONS, INC.,

Petitioners

v.

FOCAL IP, LLC,

Patent Owner

Case IPR2016-01261
Patent Number: 8,457,113 B2

NOTICE OF APPEAL TO THE FEDERAL CIRCUIT (35 U.S.C. § 141(c))

To: Office of the General Counsel
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Patent Owner hereby provides notice of appeal to the United States Court of Appeals for the Federal Circuit under 35 U.S.C. §§ 141 and 142 from the Final Written Decision of the Patent Trial and Appeal Board entered December 28, 2017, (Paper No. 71).

Pursuant to 37 C.F.R. § 90.2(a)(3)(ii) the expected issues on appeal will include:

1. Whether Petitioners have shown by a preponderance of the evidence that claims 1, 2, 8, 11, 15–19, 94, 95, 102, 109–13, 128, 163, 164, 166–68, 175, and 179–81, of U.S. Patent No. 8,457,113 B2 are unpatentable as discussed in the Final Written Decision.

2. Whether the Board’s construction of the disputed terms and phrases at issue was correct, as discussed in the Final Written Decision.

3. Whether Petitioners have shown by a preponderance of the evidence that claims 1, 2, 8, 11, 15–19, 94, 95, 102, 109–13, 128, 163, 164, 166–68, 175, and 179–81, of U.S. Patent No. 8,457,113 B2 are obvious/anticipated in light of the cited prior art references, as discussed in the Final Written Decision.

4. Whether the PTAB misapprehended or overlooked evidence or arguments in its Final Written Decision.

Patent Owner has electronically filed this notice with the Patent Trial and Appeal Board, pursuant to 37 C.F.R. § 90.2(a)(1), 37 C.F.R. § 42.6(b)(1) and Federal Circuit Rule 15(a)(1).

Simultaneously herewith, patent owner is providing the Federal Circuit an electronic copy of the present Notice of Appeal (pursuant to 37 C.F.R. § 90.2(a)(2)(i) and 15(a)(1)) together with a \$500 fee (pursuant to 37 C.F.R. § 90.2(a)(2)(ii) and Federal Circuit Rule 52(a)(3)(A)). A copy of the Final Written Decision is also included.

Dated: March 1, 2018

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, in addition to being filed electronically through the Patent Trial and Appeal Board End to End (PTAB E2E), this Notice of Appeal was filed with the Director of the United States Patent and Trademark Office, at the following address:

Office of the General Counsel
U.S. Patent and Trademark Office
Alexandria, Virginia 22313-1450

The undersigned also certifies that a true and correct copy of this Notice of Appeal and the required fee were filed electronically via CM/ECF on March 1, 2018, with the Clerk of Court for the United States Court of Appeals for the Federal Circuit.

The undersigned also certifies that a true and correct copy of this Notice of Appeal was served on March 1, 2018 on counsel of record for Petitioners by electronic mail (by agreement of the parties) at the following addresses:

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