

Filed on behalf of:
Andrea Electronics Corporation
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Paper No. _____
Date: November 13, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

ANDREA ELECTRONICS CORPORATION,
Patent Owner.

Case IPR2017-00626
Patent 6,363,345 B1

PATENT OWNER'S NOTICE OF APPEAL

Pursuant to 37 C.F.R. § 90.2(a) and 35 U.S.C. §§ 319 and 141-142, Patent Owner Andrea Electronics Corporation (“Patent Owner”), respectfully gives Notice that it hereby appeals the Patent Trial and Appeal Board’s (“Board”) Final Written Decision on Remand, dated October 28, 2020 (Paper 50) (the “Remand Decision”), that claims 6-9 of U.S. Patent No. 6,363,345 (“the ’345 Patent”) are unpatentable to the United States Court of Appeals for the Federal Circuit (“Federal Circuit”), and from all other underlying orders, decisions, rulings and opinions that are adverse to Patent Owner. This Notice of Appeal is timely filed under 35 U.S.C. § 142, Fed. Cir. R. 15(a)(1), and 37 C.F.R. § 90.3.

For the limited purpose of providing the Director of the United States Patent and Trademark Office (“Director”) with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), issues in Patent Owner’s appeal may include the Board’s interpretation of the Federal Circuit’s construction of “periodically”; the Board’s application of that construction; the Board’s failure to apply that construction to the asserted prior art combination as set forth in the Petition (Paper 1); the Board’s interpretation of the prior art; the Board’s determination that claims 6-9 of the ’345 Patent are unpatentable under 35 U.S.C. § 103; any findings supporting that determination; the Board’s failure to consider evidence of record properly; the Board’s legal errors in undertaking its § 103 analysis; the Board’s findings that conflict with the evidence of record or are not supported by substantial evidence;

the constitutionality of the ALJs issuing the Remand Decision under the Appointments Clause; as well as all other issues decided adversely to Patent Owner in any orders, decisions, rulings and opinions.

In accordance with 37 C.F.R. §§ 90.2(a) and 104.2, Federal Circuit Rules 15(a) and 52, and 37 C.F.R. § 42.6(e), this Notice of Appeal is being (1) filed electronically with the Board's PTAB E2E system; (2) delivered by hand to the Director; (3) filed electronically with the Federal Circuit via the Court's CM/ECF system together with the requisite fee; and (4) served via electronic mail on counsel of record for Petitioner.

Dated: November 13, 2020

Respectfully submitted,

/William D. Belanger/

William D. Belanger (Lead Counsel)

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Attorneys for Patent Owner

Andrea Electronics Corporation

CERTIFICATE OF FILING

In accordance with 37 C.F.R. § 90.2(a)(1) and § 104.2, the undersigned hereby certifies that on November 13, 2020, in addition to being filed electronically through the Board's PTAB E2E system, the original version of the foregoing **PATENT OWNER'S NOTICE OF APPEAL** was filed by hand on 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, 600 Dulany Street
Alexandria, VA 22314-5793

In accordance with 37 C.F.R. § 90.2(a)(2) and Federal Circuit Rule 15(a), the undersigned hereby certifies that on November 13, 2020, a true and correct copy of the foregoing **PATENT OWNER'S NOTICE OF APPEAL (with attached Final Written Decision on Remand)** was filed electronically with the Clerk of the United States Court of Appeals for the Federal Circuit with the requisite fee, via the Court's CM/ECF system.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that on November 13, 2020, a true and correct copy of the foregoing **PATENT OWNER'S NOTICE OF APPEAL** was served via e-mail on the following counsel of record (pursuant to the Service Information section of Petitioner's Updated Mandatory Notices (Paper 39)):

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