

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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INTUITIVE SURGICAL, INC.,  
Petitioner,

v.

ETHICON LLC,  
Patent Owner.

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Case IPR2018-00935  
U.S. Patent No. 8,991,677 B2

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**PATENT OWNER ETHICON LLC'S  
NOTICE OF APPEAL UNDER 37 C.F.R. § 90.2(a)**

Pursuant to 35 U.S.C. §§ 141-144, 319 and 37 C.F.R § 90.2(a), notice is hereby given that Patent Owner Ethicon LLC (“Ethicon”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision (Paper No. 34) (the “Final Written Decision”), in IPR2018-00935, entered on December 4, 2019, by the United States Patent and Trademark Office, Patent Trial and Appeal Board (the “Board”), and from all orders, decisions, rulings, and opinions antecedent to the Final Written Decision. A copy of the Final Written Decision is attached hereto as Exhibit A.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Ethicon further indicates that the issues on appeal may include, but are not limited to, the Board’s determination that claims 6-10 and 17 of U.S. Patent No. 8,991,677 have been shown to be unpatentable under 35 U.S.C. § 103 in view of the grounds of unpatentability identified in the Board’s Final Written Decision, challenges to any findings supporting the determination, the Board’s failure to properly consider evidence of record, the Board’s legal errors in undertaking the obviousness analysis, the Board’s failure to consider Ethicon’s arguments in support of patentability, the Board’s findings that conflict with the evidence of record and are not supported by substantial evidence, and other issues decided adversely to Ethicon.

Simultaneous with this submission, a copy of this Notice of Appeal is being filed through the Patent Trial and Appeal Board End to End (“PTAB E2E”)

System. In addition, a copy of the Notice of Appeal, along with the required docketing fee, is being filed with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit.

Dated: February 4, 2020

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, in addition to being filed electronically through the PTAB E2E System, the original version of **PATENT OWNER'S NOTICE OF APPEAL UNDER 37 C.F.R. § 90.2(a)** has been sent via priority mail on February 4, 2020, to 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  
United States Patent and Trademark Office  
Madison Building East, Room 10B20  
600 Dulany Street  
Alexandria, VA 22314-5793

The undersigned also certifies that a true and correct copy of **PATENT OWNER'S NOTICE OF APPEAL UNDER 37 C.F.R. § 90.2(a)** and required filing fee were filed electronically via CM/ECF on February 4, 2020, 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 **PATENT OWNER'S NOTICE OF APPEAL UNDER 37 C.F.R. § 90.2(a)** was served on February 4, 2020, via electronic mail, upon the following:

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