

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 IPR2018-01247  
Patent 8,479,969

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**PETITIONER'S NOTICE OF APPEAL**

Pursuant to 35 U.S.C. §§ 142 and 37 C.F.R. § 90.2(a), Petitioner Intuitive Surgical, Inc. hereby appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board's ("Board") Final Written Decision entered on January 13, 2020 (Paper 40), and from all other underlying orders, decisions, rulings and opinions that are adverse to Petitioner.

This appeal is related to two other appeals being filed at the same time from the following related proceedings concerning the same patent: IPR2018-01248 and IPR2018-01254.

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

- (1) Whether the Board erred in finding that Petitioner failed to meet its burden to establish that claim 24 was unpatentable under 35 U.S.C. § 103 over Anderson and Timm;
- (2) Whether the Board erred in finding that Petitioner failed to meet its burden to establish that claims 25-26 were unpatentable under 35 U.S.C. § 103 over Anderson, Timm and Wallace;
- (3) Whether the Board erred in finding that Petitioner failed to meet its burden to establish that claims 21-22 were unpatentable under 35 U.S.C. § 103 over Anderson and Viola;
- (4) The Board's claim constructions or failure to construe any terms;

- (5) Whether the Board erred in finding that a POSITA would understand that the proposed combination for claim 24 would require “tactile feedback,” and further finding that the proposed combinations failed to include the allegedly required “tactile feedback,” and further finding that a POSITA would not have simply included the allegedly required “tactile feedback” when making the combination, and;
- (6) Any findings or determinations supporting or related to the aforementioned issues as well as other issues decided adversely to Petitioner in any orders, decisions, rulings, or opinions.

Simultaneous with this submission, a copy of the Notice of Appeal is being filed electronically with the Patent Trial and Appeal Board. In addition, a copy of this Notice of Appeal, along with the required docketing fees, are being electronically filed with the Clerk’s Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Date: February 14, 2020

/Steven R. Katz/

Steven R. Katz, Reg. No. 43,706  
Attorney for Petitioner

## CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4), the undersigned certifies that on February 14, 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 email addresses of record as follows:

Anish R. Desai  
Elizabeth Stotland Weiswasser  
Adrian Percer  
Christopher T. Marando  
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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 February 14, 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 February 14, 2020, a true and correct copy of the foregoing Notice of Appeal, along with a copy of the Final Written 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

*/Steven R. Katz/*

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