

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.
Petitioner

v.

MPH TECHNOLOGIES OY,
Patent Owner

Case IPR2019-00820
Patent 7,937,581

**PATENT OWNER'S NOTICE OF APPEAL OF FINAL WRITTEN
DECISION ENTERING ADVERSE JUDGMENT**

VIA P-TACTS

Patent Trial and Appeal Board

via U.S.P.S. Priority Mail Express

Director of the United States Patent and Trademark Office

c/o Office of the General Counsel

United States Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22324-1450

via CM/ECF

United States Court of Appeals for the Federal Circuit

INTRODUCTION

MPH TECHNOLOGIES OY'S ("Patent Owner") appeal stems from the Patent Trial and Appeal Board's Judgment, Adverse Judgment on Remand 37 C.F.R. § 42.73(b), entered on May 11, 2023 (Paper 55, "Final Written Decision") in the above-captioned *inter partes* review of United States Patent No. 7,937,581 ("the '581 Patent"). This notice of Patent Owner's appeal is timely filed within 63 days of the issuance of the Denial of Director Review (Paper 57) on October 25, 2023, in response to Patent Owner's timely filed Request for Director Review (Paper 56) filed on June 12, 2023. 37 C.F.R. §§ 90.3(b); 42.71(d)(2). See *Revised Interim Director Review Process* (September 18, 2023), § 3(b).

PATENT OWNER'S APPEAL

Pursuant to 28 U.S.C. § 1295(a)(4)(A), 35 U.S.C. §§ 141-143, 37 C.F.R. §§ 90.2 – 90.3(b) and Fed. Cir. R. 15, Patent Owner hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered May 11, 2023 (Paper 55) in IPR2019-00820, as well as all underlying orders and rulings.

PATENT OWNER'S ISSUES ON APPEAL

Providing the information required by 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner states that the issues on appeal include but are not limited to the Board's entry of adverse judgment under color of 37 C.F.R. § 42.73(b) based on Patent

Owner's filing of a statutory disclaimer during the appeal to the United States Court of Appeals for the Federal Circuit in Appeal Nos. 2021-1355, 2021-1356, including but not limited to: (1) the Board's entry of adverse judgment in circumstances where the Patent Owner filed the statutory disclaimer of claim 4 of the '581 Patent before the Federal Circuit issued its mandate remanding jurisdiction back to the Board; (2) the Board's entry of adverse judgment in circumstances where claims 6-8 of the '581 Patent were found not unpatentable such that there were remaining claims in the trial at the time of Patent Owner's disclaimer of claim 4; (3) the authority of the USPTO to promulgate 37 C.F.R. § 42.73(b); and (4) any findings or determinations that otherwise conflict with applicable law.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2, a copy of this Notice of Appeal is being filed simultaneously with the Patent Trial and Appeal Board, the Clerk's Office for the United States Court of Appeals for the Federal Circuit (along with the required docketing fees), and the Director of the Patent and Trademark Office c/o the Office of the General Counsel at the below-identified address.

Respectfully submitted,

/James T. Carmichael/

James T. Carmichael, Reg. No. 45,306

CARMICHAEL IP, PLLC

8607 Westwood Center Drive, Suite 270

Tysons, VA 22182

(703) 646-9255

Date: December 26, 2023

CERTIFICATION OF FILING

The undersigned hereby certifies that, in addition to being electronically filed through P-TACTS, a true and correct copy of **PATENT OWNER'S NOTICE OF APPEAL OF FINAL WRITTEN DECISION ENTERING ADVERSE JUDGMENT** is being filed by U.S.P.S. Priority Mail Express® with the Director on the date below 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
P.O. Box 1450
Alexandria, VA 22314-1450

The undersigned also hereby certifies that a true and correct copy of **PATENT OWNER'S NOTICE OF APPEAL OF FINAL WRITTEN DECISION ENTERING ADVERSE JUDGMENT** and the filing fee is being filed via CM/ECF with the Clerk's Office of the United States Court of Appeals for the Federal Circuit on the date below.

Respectfully submitted,

/James T. Carmichael/
James T. Carmichael, Reg. No. 45,306
Carmichael IP, PLLC
8607 Westwood Center Drive, Suite 270
Tysons, VA 22182
Attorney for Patent Owner

Date: December 26, 2023

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