

Filed on behalf of: Philip Morris Products, S.A.

Entered: May 27, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PHILIP MORRIS PRODUCTS, S.A.,
Petitioner,

v.

RAI STRATEGIC HOLDINGS, INC.,
Patent Owner.

Case IPR2020-01602
Patent 9,901,123

PETITIONER'S NOTICE OF APPEAL

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Petitioner Philip Morris Products, S.A. ("Petitioner") appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered by the Patent Trial and Appeal Board (the "Board") on March 30, 2022 (Paper 32) (the "Final Written Decision," a copy of which is attached hereto as Exhibit A).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Petitioner further indicates that the issues on appeal may include, without limitation:

- Whether the Board erred in determining that Petitioner has not shown by a preponderance of the evidence that any of the challenged claims of U.S. Patent No. 9,901,123 are unpatentable as obvious, along with all reasons, findings, opinions, and orders leading thereto or underlying that decision.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a), this Notice is being filed with the Director of the United States Patent and Trademark Office, and a copy of this Notice is being concurrently filed with PTAB. In addition, a copy of the Notice of Appeal, along with the required docketing fee, is being filed with the Clerk of Court for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Dated: May 27, 2022

By: / Jonathan M. Strang /

Jonathan M. Strang (Reg. No. 61,724)
jonathan.strang@lw.com
Latham & Watkins LLP
555 Eleventh Street, NW, Ste. 1000
Washington, D.C. 20004-1304
Telephone: 202.637.2200
Fax: 202.637.2201

Counsel for Petitioner
Philip Morris Products, S.A.

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to 37 C.F.R. § 90.2(a)(1), on this 27th day of May, 2022, I electronically filed the foregoing **PETITIONER'S NOTICE OF APPEAL** with the Patent Trial and Appeal Board via E2E, in accordance with 37 C.F.R. § 42.6(b)(1).

I also hereby certify that a true and correct paper copy of the foregoing **PETITIONER'S NOTICE OF APPEAL** is being filed by hand 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, 10B20
600 Dulany Street
Alexandria, VA 22314-5793

I also hereby certify that, pursuant to Federal Circuit Rule 52(a)(2), on the 27th day of May, 2022, a true and correct copy of the foregoing **PETITIONER'S NOTICE OF APPEAL** and the filing fee, were filed with the Clerk's Office of the U.S. Court of Appeals for the Federal Circuit via CM/ECF.

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 27th day of May, 2022, a true and correct copy of the foregoing **PETITIONER'S NOTICE OF APPEAL** was served by electronic mail on Patent Owner's lead and backup counsel at the following email addresses:

David M. Maiorana (Reg. No. 41,449)
Kenneth S. Luchesi (Reg. No. 58,673)
David B. Cochran (Reg. No. 39,142)
Jones Day
901 Lakeside Avenue
Cleveland, OH 44114
Tel: 216.586.3939
Fax: 216.579.0212
Email: dmaiorana@jonesday.com
Email: kluchesi@jonesday.com
Email: dcochran@jonesday.com

Anthony M. Insogna (Reg. No. 35,203)
Jones Day
4655 Executive Drive, Suite 1500
San Diego, CA 92121-3134
Tel: 858.314.1200
Fax: 844.345.3178
Email: aminsogna@jonesday.com

Geoffrey K. Gavin (Reg. No. 47,591)
Jones Day
1221 Peachtree Street, N.E., Suite 400
Atlanta, GA 30361-3053
Tel: 404.521.3939
Fax: 404.581.8330
Email: ggavin@jonesday.com

Joshua R. Nightingale (Reg. No. 67,865)
Jones Day
500 Grant Street, Suite 4500
Pittsburgh, PA 15219-2514
Tel: 412.391.3939
Fax: 412.394.7959
Email: jrnightingale@jonesday.com

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.