

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO. LTD.,
SAMSUNG ELECTRONICS AMERICA, INC. AND
APPLE INC.

Petitioner

v.

NEONODE SMARTPHONE LLC,

Patent Owner

Case IPR2021-00144
U.S. Patent No. 8,095,879

**PETITIONER SAMSUNG ELECTRONICS CO. LTD.,
SAMSUNG ELECTRONICS AMERICA, INC. AND APPLE INC.'S
NOTICE OF APPEAL**

Pursuant to 35 U.S.C. §§ 141(c) and 319, and 37 C.F.R. § 90.2(a), notice is hereby given that Petitioner Samsung Electronics Co. Ltd, Samsung Electronics America, Inc., and Apple Inc. (collectively, "Petitioner") hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision in Case No. IPR2021-00144, concerning U.S. Patent No. 8,095,879 ("879 patent"), entered December 15, 2022 (Paper 59) ("Final Written Decision") by the Patent Trial and Appeal Board ("the Board"), and from all underlying orders, decisions, rulings, and opinions related thereto and included therein. This appeal is timely under 35 U.S.C. § 142, 37 C.F.R. § 90.3, Federal Rule of Appellate Procedure 15(a)(1), and Federal Circuit Rule 15(a)(1).

For the limited purpose of providing the Director with the information required by 37 C.F.R. § 90.2(a)(3)(ii) and Federal Rule of Appellate Procedure 15(a)(2)(C), the expected issues on appeal include, but are not necessarily limited to:

1. The Board's decision that claims 1, 2, 4, 5, 14-17 of the '879 patent were not shown to be unpatentable under 35 U.S.C. § 103(a) as obvious over Hirayama307 and Ren, and any finding supporting that determination;
2. The Board's decision that claim 3 of the '879 patent was not shown to be unpatentable under 35 U.S.C. § 103(a) as obvious over Hirayama307, Ren, and Hirayama878, and any finding supporting that determination;

3. The Board's decision that claims 6 and 13 of the '879 patent were not shown to be unpatentable under 35 U.S.C. § 103(a) as obvious over Hirayama307, Ren, and Allard, and any finding supporting that determination;
4. The Board's decision that claim 12 of the '879 patent was not shown to be unpatentable under 35 U.S.C. § 103(a) as obvious over Hirayama307 and Henckel, and any finding supporting that determination;
5. The Board's interpretation of the prior art;
6. The Board's analysis of secondary considerations of non-obviousness;
7. The Board's legal errors in undertaking the aforementioned obviousness analyses, including any implicit claim constructions that the Board applied in reaching its determinations;
8. The Board's findings that conflict with the evidence of record or are otherwise not supported by substantial evidence;
9. The Board's failure to consider arguments and evidence of record fully and properly;
10. The Board's reliance on conclusory and insufficient expert testimony;
and
11. All other issues decided adversely to Petitioner in any orders, decisions, rulings, or opinions underlying or supporting the Final Written Decision.

Petitioner's Notice of Appeal
IPR2021-00144 (U.S. Patent No. 8,095,879)

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a)(1), this notice is being filed with the Director of the U.S. Patent and Trademark Office, and a copy is also being filed with the Board. In addition, pursuant to Federal Circuit Rule 15(a)(1) and 37 C.F.R. § 90.2(a)(2), Petitioner also is electronically filing this notice with the Clerk of the U.S. Court of Appeals for the Federal Circuit, and paying the fee set forth in Federal Circuit Rule 52.

Dated: January 31, 2023

Respectfully Submitted,

/W. Karl Renner/
W. Karl Renner, Reg. No. 41,265
David L. Holt, Reg. No. 65,161
Tiffany C. Miller, Reg. No. 52,032
James M. Heintz, Reg. No. 41,828

Attorneys for Petitioner

CERTIFICATE OF SERVICE

In accordance with 37 CFR § 90.2(a)(1) and § 104.2, I hereby certify that in addition to being filed electronically through the Board's E2E System, the original version of the foregoing, Petitioner's Notice of Appeal was served by USPS Certified Mail on January 31, 2023, 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
Madison Building East, 10B20
600 Dulany Street
Alexandria, VA 22314-5793

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2023, a true and correct copy of the foregoing, Petitioner's 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

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