

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 IPR2021-00145
U.S. Patent No. 8,812,993

PATENT OWNER'S NOTICE OF APPEAL

To the Director of the United States Patent and Trademark Office,

Under 35 U.S.C. §§ 141(c), 142, and 319, and 37 C.F.R. §§ 90.2-90.3, notice is hereby given that Patent Owner Neonode Smartphone LLC (“Patent Owner”) appeals to the United State Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“the Board”), entered on June 15, 2022 (Paper 68 non-public version) and on July 6, 2022 (Paper 71 public version) in IPR2021-00145 regarding U.S. Patent No. 8,812,993 B2 (“the ’993 Patent”), and from all underlying orders, decisions, rulings, and opinions decided adversely to Patent Owner in the above-captioned proceeding.

For the limited purpose of providing the Director of the United States Patent and Trademark Office (“the Director”) with the information requested under 37 C.F.R. § 90.2.(a)(3)(ii), the Patent Owner submits that the appeal will address all aspects of the Board’s decision decided adversely to Patent Owner, including, without limitation, whether the Board erred in concluding that Petitioners have proven by a preponderance of the evidence that claims 1-8 of the ’993 Patent are unpatentable. In particular, and without limitation, this appeal will address the issues of whether Petitioners have proven that (i) claims 1-3 and 7-8 are unpatentable pursuant to 35 U.S.C. § 103 over Hisatomi, et al., JP 2002-55750A (“Hisatomi”) in view of Xiangshi Ren & Shinji Moriya, Rodkin, Improving

Selection Performance on Pen-Based Systems: A Study of Pen-Based Interaction for Selection Tasks, 7 ACM Transactions on Computer-Human Interaction, Sept. 2000, at 384 (“Ren”), (ii) claim 4 is unpatentable pursuant to 35 U.S.C. § 103 over Hisatomi in view of Ren and U.S. Patent No. 5,422,545 (“Allard”), (iii) claim 5 is unpatentable pursuant to 35 U.S.C. § 103 over Hisatomi in view of Ren and U.S. Patent No. 5,249,296 (“Tanaka”), and (iv) claim 6 is unpatentable pursuant to 35 U.S.C. § 103 over Hisatomi in view of Ren and US. Patent No. 6,710,791 (“Kodama”). Patent Owner further reserves the right to challenge any finding or determination relating to the issues and matters listed above and to challenge any other issues or matters decided against Patent Owner in any order, decision, ruling, or opinion by the Board in the above-captioned proceeding.

This Notice of Appeal is timely filed with the Director. 37 C.F.R. § 90.3(a)(1), (b)(1). Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a)(1), this Notice is being filed with the Director, and a copy of this Notice is being concurrently filed with the Board. In addition, a copy of this Notice is being filed with the Clerk of the United States Court of Appeals for the Federal Circuit, along with the applicable filing fee, via CM/ECF and pay.gov.

Dated: August 15, 2022

Respectfully submitted,

/Philip J. Graves/

Philip J. Graves

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CERTIFICATES OF FILING AND SERVICE

I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board's PTAB E2E System, the original version of the foregoing PATENT OWNER'S NOTICE OF APPEAL was filed, as required by 37 C.F.R. § 104.2, by Express Mail on this 15th day of August 2022 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

The undersigned also hereby certifies that a true and correct copy of the foregoing PATENT OWNER'S NOTICE OF APPEAL and the filing fee is being filed via the electronic filing system, CM/ECF, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit on August 15, 2022 and a (1) true and correct paper copy of the foregoing are being filed by Express Mail, as required by the Fed. Cir. R. 15(a)(1), on this 15th day of August 2022 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 20439

The undersigned also hereby certifies that on August 15, 2022, copies of the foregoing PATENT OWNER'S NOTICE OF APPEAL have been served on Petitioners as provided in 37 C.F.R. § 42.6(e) via electronic mail transmission addressed to the attorneys of record for the Petitioner at the following addresses:

IPR50095-0016IP1@fr.com; PTABInbound@fr.com;

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