

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

KOSS CORPORATION,
Patent Owner.

CASE: IPR2021-00255
U.S. PATENT NO. 10,298,451

PATENT OWNER'S NOTICE OF APPEAL

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

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Patent Owner Koss Corporation (“Koss”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on May 31, 2022, (Paper 54) (“Final Written Decision”) by the Patent Trial and Appeal Board (“the Board”), and from all underlying orders, decisions, rulings, and opinions. A copy of the Final Written Decision is attached as Exhibit A.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Koss indicates that the issues on appeal include, but are not limited to, the Board’s determination that claims 1-21 (the “Challenged Claims”) of U.S. Patent 10,298,451 B1 (“’451 Patent”) are unpatentable over the prior art of record, and any finding or determinations supporting or related to that ruling including, without limitation, the Board’s decision that Petitioner showed by a preponderance of the evidence that the Challenged Claims of the ’451 Patent are obvious over the prior art of record and that the Patent Owner failed to show that the commercial success of a certain commercial product, Apple’s HomePod and HomePod Mini smart speakers, is a secondary indicia of the nonobviousness of the Challenged Claims.

Pursuant to 37 C.F.R. § 90.3(a)(1), Patent Owner is timely filing this Notice of Appeal within sixty-three (63) days of the Board’s May 31, 2022 Final Written Decision. Pursuant to 37 C.F.R. § 90.2(a)(1), Patent Owner is filing copies of this

Notice of Appeal with the Director of the United States Patent and Trademark Office and with the Board. Pursuant to Federal Circuit Rule 15(a)(1), Patent Owner is filing a copy of this Notice of Appeal with the Clerk of the United States Court of Appeals for the Federal Circuit, and paying the required fees.

Respectfully submitted this 1st day of August, 2022.

K&L Gates, LLP

By: /Mark G. Knedeisen/
Mark G. Knedeisen
Reg. No. 42,747

CERTIFICATION OF SERVICE

Pursuant to 37 C.F.R. § 90.2(a)(1), on August 1, 2022 the foregoing Notice of Appeal was filed electronically with the Board in accordance with 37 C.F.R. § 42.69b)(1) and mailed to the Director via Priority Mail Express in accordance with 37 C.F.R. §§ 1.10 and 104.2 at the following address:

Director of the U.S. Patent and Trademark Office
c/o Office of the Solicitor
United States Patent and Trademark Office
Mail Stop 8, P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 90.2(a)(2) and Fed. Cir. R. 15, on August 1, 2022 the foregoing Notice of Appeal was electronically filed with the Court of Appeals for the Federal Circuit via CM/ECF with requisite fees paid via pay.gov. Pursuant to Fed. Cir. R. 15(a)(1), one copy of this Notice of Appeal is being sent to the Clerk's Office of the Federal Circuit on August 1, 2022.

Pursuant to 37 C.F.R. § 42.6(e) and the parties' agreement to accept electronic service, on August 1, 2022 the foregoing Notice of Appeal was served via email on the following counsel of record for Petitioner:

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