

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner,

v.

OMNI MEDSCI, INC.,
Patent Owner.

Case IPR2021-00453

**PETITIONER'S NOTICE OF APPEAL TO THE
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Pursuant to 35 U.S.C. §§ 141(c), 142, and 319, and 37 C.F.R. § 90.2(a), notice is hereby given that Petitioner Apple Inc. hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision in Case No. IPR2021-00453 entered August 3, 2022 (Paper 22) (“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 construction of claim terms of U.S. Patent No. 10,517,484 (the “484 patent”), including the term “identify an object,” the Board's interpretation of those constructions, and the Board's application of those constructions to the prior art.
2. The Board's decision that claims 3, 4, and 8-12 of U.S. Patent No. 10,517,484 (the “484 patent”) were not shown to be unpatentable under 35 U.S.C. § 103 as obvious over U.S. Patent No. 9,241,676

- (“Lisogurski”), U.S. Patent Publication No. 2005/0049468 (“Carlson”), and U.S. Patent No. 8,108,036 (“Tran”).
3. The Board’s decision that claims 5 and 13 of the ’484 patent were not shown to be unpatentable under 35 U.S.C. § 103 as obvious over Lisogurski, Carlson, Tran, and U.S. Patent No. 8,725,226 (“Isaacson”).
 4. The Board’s decision that claims 6 and 14 of the ’484 patent were not shown to be unpatentable under 35 U.S.C. § 103 as obvious over Lisogurski, Carlson, Tran, Isaacson, and U.S. Patent Publication No. 2012/0197093 (“Valencell-093”).
 5. All of the Board’s subsidiary findings supporting its determination that claims 3-6 and 8-14 of the ’484 patent were not shown to be unpatentable under 35 U.S.C. § 103; the Board’s failure to consider arguments and evidence of record properly; the Board’s legal errors in undertaking the obviousness analysis; and the Board’s findings that conflict with the evidence of record and are not supported by substantial evidence.
 6. All other issues decided adversely to Petitioner in any orders, decisions, rulings, or opinions underlying or supporting the Final Written Decision.

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: October 5, 2022

Respectfully Submitted,

/Jeffrey P. Kushan/
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Lead Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2022, copies of this Notice of Appeal have been served in its entirety by email on the following counsel of record for Patent Owner:

Thomas A. Lewry
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Dated: October 5, 2022

Respectfully submitted,

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