

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC and ECBOEE TECHNOLOGIES ULC,
Petitioners,

v.

ECOFACOR, INC.,
Patent Owner

IPR2022-00538
Patent No. 9,194,597

PATENT OWNER'S NOTICE OF APPEAL

I. INTRODUCTION

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner EcoFactor, Inc. appeals to the United States Court of Appeals for the Federal Circuit from: (1) the Final Written Decision of the Patent Trial and Appeal Board entered on August 1, 2023 (Paper 26), and from all underlying findings, determinations, orders, decisions, rulings and opinions regarding the inter partes review of U.S. Patent No. 9,194,597 (“the ’597 Patent”), including the DECISION Instituting Inter Partes Review entered on August 3, 2022 (Paper 7).

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner anticipates that the issues on appeal may include, but are not limited to, the following, as well as any underlying findings, determinations, orders, decisions, rulings, opinions, or other related issues:

Whether the Patent Trial and Appeal Board’s decision finding that claims 1-24 of the ’597 Patent are unpatentable was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; ... in excess of statutory jurisdiction, authority or limitations, or ... without observance of procedure required by law; [or] unsupported by substantial evidence” 5 U.S.C. § 706(2)(A)-(E).

Simultaneous with the electronic submission of this Notice of Appeal to the Patent Trial and Appeal Board, a copy of this Notice of Appeal is being filed with

the United States Patent and Trademark Office by way of mail to the Office of
General Counsel to:

Office of the General Counsel
United States Patent and Trademark Office
Madison Building East, Room 10B20
600 Dulany Street
Alexandria, Virginia 22314

In addition, consistent with Federal Circuit Rules 15(a)(1) and 25(b)(1), this
Notice of Appeal, along with the required docketing fees and copies of the decisions
of the agency for which review is sought, are being filed electronically with the
United States Court of Appeals for the Federal Circuit, and one paper copy of the
Notice of Appeal is being provided to the Clerk's Office:

Clerk of Court
United States Court of Appeals for the Federal Circuit
717 Madison Place, NW, Room 401
Washington, DC 20439
Case IPR2021-00982
U.S. Patent No. 10,612,983

Any required fees to the United States Patent and Trademark Office may be
charged to the account on file.

Respectfully submitted,

Dated: October 3, 2023

/s/ Philip X. Wang

Philip X. Wang (Reg. No. 74,621)
Russ August & Kabat
12424 Wilshire Blvd., 12th Fl.
Los Angeles, CA 90025

IPR2022-00538
Patent No. 9,194,597

Phone: (310) 826-7474

Fax: (310) 826-6991

pwang@raklaw.com

rak_ecofactor@raklaw.com

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))

The undersigned hereby certifies that, in addition to being electronically filed through the Patent Trial and Appeal Board End to End System, the above document is being sent on October 3, 2023 by United States Postal Service Priority Mail Express to the United States Patent and Trademark Office at the following address:

United States Patent and Trademark Office
Madison Building East, Room 10B20
600 Dulany Street
Alexandria, Virginia 22314

The undersigned also hereby certifies that the above document is being e-filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees.

The undersigned also hereby certifies that the above document was served on October 3, 2023, by filing this document through the Patent Trial and Appeal Case Tracking System as well as delivering a copy via electronic mail upon the following attorneys of record for the Petitioner:

Matthew A. Smith
Elizabeth Laughton
SMITH BALUCH LLP
smith@smithbaluch.com
laughton@smithbaluch.com

Justin Oliver
Stephen Yam
VENABLE LLP
joliver@venable.com
syam@venable.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.