

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioner

v.

SMART MOBILE TECHNOLOGIES LLC,

Patent Owner.

Case IPR2022-00807

U.S. Patent No. 9,756,168

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 Smart Mobile Technologies 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 October 23, 2023 (Paper 38) in IPR2022-00807 regarding U.S. Patent No. 9,756,168 B1 (“the ’168 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 2–5, 19–23, 25, 28, 29, and 34 of the ’168 Patent are unpatentable. In particular, and without limitation, this appeal will address the issues of whether Petitioners have proven that (i) claims 2-5, 23, and 28 are unpatentable pursuant to 35 U.S.C. § 103 over the combination of U.S. Patent No. 5,854,985 (“Sainton”), U.S. Patent No. 6,430,599 (“Baker”), and U.S. Patent No. 6,185,413 (“Mueller”); (ii) claims 25 and 34 are unpatentable

pursuant to 35 U.S.C. § 103 over a combination of Sainton, Baker, Mueller, and U.S. Patent No. 7,043,532 (“Humpleman”); (iii) claim 22 is unpatentable pursuant to 35 U.S.C. § 103(a) over a combination of Sainton, Baker, Mueller, and U.S. Patent No. 5,201,067 (“Grube”); (iv) claims 19 and 20 are unpatentable pursuant to 35 U.S.C. § 103(a) over a combination of Sainton, Baker, Mueller, and U.S. Patent No. 6,587,684 (“Hsu”); (v) claim 21 is unpatentable pursuant to 35 U.S.C. § 103(a) over a combination of Sainton, Baker, Mueller, and U.S. Patent No. 6,252,543 (“Camp”); (vi) claim 29 is unpatentable pursuant to 35 U.S.C. § 103(a) over a combination of Sainton, Baker, Mueller, and U.S. Patent No. 6,337,858 (“Petty”). 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: December 19, 2023

Respectfully submitted,

/ Kenneth J. Weatherwax /

Kenneth J. Weatherwax, Reg. No. 54,528
weatherwax@lowensteinweatherwax.com

LOWENSTEIN & WEATHERWAX LLP

1016 Pico Blvd

Santa Monica, CA 90405

Tel: (310) 307-4500

Philip J. Graves

pgraves@gravesshaw.com

Greer N. Shaw

gshaw@gravesshaw.com

GRAVES & SHAW LLP

355 S. Grand Ave., Suite 2450

Los Angeles, CA 90071

Tel.: (213) 204-5101

CERTIFICATES OF FILING AND SERVICE

I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board's P-TACTS 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 19th day of December 2023 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 December 19, 2023 and a true and correct paper copy of the foregoing is being filed by Express Mail, as required by the Fed. Cir. R. 15(a)(1), on this 19th day of December 2023 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

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.