

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ECOBEE TECHNOLOGIES ULC, and GOOGLE, LLC
Petitioners

v.

ECOFACTOR, INC.,
Patent Owner

IPR2022-00983, IPR2023-00356
Patent No. 8,596,550

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 November 13, 2023 (Paper 39), and from all underlying findings, determinations, orders, decisions, rulings and opinions regarding the inter partes review of U.S. Patent No. 8,596,550 (“the ’550 Patent”), including the DECISION Instituting Inter Partes Review entered on November 15, 2022 (Paper 8).¹

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 1-16 of the ’550 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).

¹ IPR2022-00356 (Google LLC) has been joined with IPR2022-00983. Paper 17.

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: January 16, 2024

/s/ Philip X. Wang

IPR2022-00983
Patent No. 8,740,550

Philip X. Wang (Reg. No. 74,621)
Russ August & Kabat
12424 Wilshire Blvd., 12th Fl.
Los Angeles, CA 90025
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 PTACTS, the above document is being sent on January 16, 2024 by United States Postal Service Priority Mail Express to the United States Patent and Trademark Office at the following address:

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600 Dulany Street
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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 January 16, 2024, by filing this document through the PTACTS as well as delivering a copy via electronic mail upon the following attorneys of record for the Petitioner:

Justin J. Oliver
Leslie A. Lee
VENABLE LLP
JOliver@venable.com
LALee@venable.com

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

Dated: January 16, 2024

/s/ Philip X. Wang

Philip X. Wang (Reg. No. 74,621)
Reza Mirzaie (Reg. No. 69,138)

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