UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD; SAMSUNG ELECTRONICS AMERICA, INC.

Petitioners,

v.

AFFINITY LABS OF TEXAS, LLC,

Patent Owner.

IPR2014-01181, IPR2014-01182, IPR2014-01184[1]

Patent 8,532,641 B2

PATENT OWNER'S NOTICE OF APPEAL

[1] Cases IPR2014-01181, IPR2014-01182, and IPR2014-01184 were consolidated on March 24, 2015. *See* IPR2014-01181, Paper 15 at 2.

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Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
United States Patent and Trademark Office
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Pursuant to 37 C.F.R. § 90.2(a), notice is hereby given that Patent Owner, Affinity Labs of Texas, LLC, ("Patent Owner") hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeals Board entered on January 28, 2016 in case IPR2014-01181, Paper 36; IPR2014-01182, Paper 16; and IPR2014-01184, Paper 16, and from all underlying findings, orders, decisions, rulings, and opinions.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner indicates that the issues on appeal include:

(1) whether the Board erred in finding claims 1-3, 5, 9, 10, and 14 of the '641 patent unpatentable under 35 U.S.C. § 103 over the combination of Abecassis, Herrod, and Chennakeshu, including the Board's determination that Petitioners met their burden to show unpatentability by a preponderance of evidence and any finding or determination supporting or related to this issue;

(2) whether the Board erred in finding claims 6-7 of the '641 patent unpatentable under 35 U.S.C. § 103 over the combination of Abecassis, Herrod, Chennakeshu, and Galensky, including the Board's determination that Petitioners

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met their burden to show unpatentability by a preponderance of evidence and any finding or determination supporting or related to this issue;

(3) whether the Board erred in finding claims 8, 11, and 13 of the '641 patent unpatentable under 35 U.S.C. § 103 over the combination of Abecassis and Chennakeshu, including the Board's determination that Petitioners met their burden to show unpatentability by a preponderance of evidence and any finding or determination supporting or related to this issue;

(4) whether the Board erred in finding claim 12 of the '641 patent unpatentable under 35 U.S.C. § 103 over the combination of Abecassis, Chennakeshu, and Galensky, including the Board's determination that Petitioners met their burden to show unpatentability by a preponderance of evidence and any finding or determination supporting or related to this issue;

(5) whether the Board erred in finding claims 8, 11, 13, and 14 of the '641 patent unpatentable under 35 U.S.C. § 103 over the combination of Ito, Haartsen, Nokia, and Rydbeck, including the Board's determination that Petitioners met their burden to show unpatentability by a preponderance of evidence and any finding or determination supporting or related to this issue;

(6) whether the Board erred in finding claim 12 of the '641 patent unpatentable under 35 U.S.C. § 103 over the combination of Ito, Haartsen, Nokia, Rydbeck, and Galensky, including the Board's determination that Petitioners met

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their burden to show unpatentability by a preponderance of evidence and any finding or determination supporting or related to this issue;

(7) whether the Board erred in finding claims 8 and 11 of the '641 patent unpatentable under 35 U.S.C. § 103 over the combination of Ohmura and Ahn, including the Board's determination that Ohmura and Ahn qualify as prior art to the '641 patent, that Petitioners met their burden to show unpatentability by a preponderance of evidence, and any finding or determination supporting or related to this issue;

(8) whether the Board erred in finding claims 13-14 of the '641 patent unpatentable under 35 U.S.C. § 103 over the combination of Ohmura, Ahn, and Nokia, including the Board's determination that Ohmura, Ahn, and Nokia qualify as prior art to the '641 patent, that Petitioners met their burden to show unpatentability by a preponderance of evidence, and any finding or determination supporting or related to this issue;

(9) whether the Board erred in construing the claim term "streaming audio signal" as "an audio signal that is transferred in a continuous stream," including any finding or determination supporting or related to this issue;

(10) whether the Board erred in construing the claim term "communication rate that provides for a CD quality listening experience" as "a data transfer rate that

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provides audio of equal or comparable quality to sound stored on a compact disc," including any finding or determination supporting or related to this issue;

(11) whether the Board erred in deciding issues of priority outside the scope of the Board's statutory authority to decide issues of unpatentability "only on a ground that could be raised under section 102 or 103";

(12) whether the Board erred in finding that claims 8, 11, and 13-14 of the '641 patent are not entitled to a priority date earlier than November 9, 2012, including any finding or determination supporting or related to this issue;

(13) whether the Board erred in considering improper new arguments and evidence introduced for the first time in the Petitioners' Reply;

(14) whether the Board deprived the Patent Owner of its constitutional right to a jury trial under the Seventh Amendment of the United States Constitution by denying Patent Owner of its patent rights without a jury trial or that the *inter partes* review process is a violation of the separation of powers provided in the United States Constitution, and any finding or determination supporting or related to these issues; and

(15) any other issues decided adversely to Patent Owner in any orders, decisions, rulings, or opinions issued in these proceedings.

Simultaneous with this submission, a copy of this Notice of Appeal is being filed with the Patent Trial and Appeal Board. In addition, this Notice of Appeal

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