

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
MICRON TECHNOLOGY, INC., and SK HYNIX INC.
Petitioners

v.

ELM 3DS INNOVATIONS, LLC,
Patent Owner

Case IPR2016-00387
Patent 8,841,778

PETITIONERS' NOTICE OF APPEAL

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Pursuant to 37 C.F.R § 90.2(a) and 35 U.S.C. § 142, Petitioners Samsung Electronics Co., Ltd., Micron Technology, Inc., and SK hynix Inc. (“Petitioners”) hereby respectfully give Notice that they appeal the Patent Trial and Appeal Board’s (“Board”) Final Written Decision, dated June 23, 2017 (Paper 63), concluding that claims 1, 2, 8, 14, 31, 32, 44, 46, and 52-54 of U.S. Patent No. 8,841,778 have not been shown to be unpatentable to the United States Court of Appeals for the Federal Circuit, and from all underlying orders, decisions, rulings and opinions that are adverse to Petitioners, including, without limitation, those within the Decision on Institution of *Inter Partes* Review, entered June 30, 2016 (Paper 13).

For the limited purpose of providing the Director with the information requested in 37 C.F.R § 90.2(a)(3)(ii), issues on Petitioners’ appeal may include, but are not limited to, the construction of the “substantially flexible” terms, including the Board’s construction of these terms; the Board’s interpretation of its construction and application of its construction to the prior art; the Board’s determination of patentability of claims 1, 2, 8, 14, 31, 32, 44, 46, and 52-54 of U.S. Patent No. 8,841,778 under 35 U.S.C § 103, which is factually incorrect, not supported by law or substantial evidence, was not the result of a logical and rational process, and is incorrect as a matter of law; any findings supporting that determination, including findings regarding motivation to combine and a

reasonable expectation of success; the Board's failure to consider evidence of record fully and properly; the Board's legal errors in undertaking its obviousness analysis; the Board's findings that conflict with the evidence of record and are not supported by substantial evidence; any finding or determination supporting or related to those issues; and any other issues decided adversely to Petitioners in any orders, decisions, rulings and opinions.

Simultaneous with this submission, a copy of the Notice of Appeal is being filed electronically with the Patent Trial and Appeal Board. In addition, a copy of this Notice of Appeal, along with the required docketing fees, are being filed electronically with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Date: August 24, 2017

/Naveen Modi/
Naveen Modi (Reg. No. 46,224)
Paul Hastings LLP
875 15th, St. N.W.
Washington, D.C., 20005
Tel.: 202.551.1700
Fax: 202.551.1705
PH-Samsung-ELM-IPR@paulhastings.com

Attorney for Petitioners

CERTIFICATE OF SERVICE

In accordance with 37 CFR § 90.2(a)(1) and § 104.2, I hereby certify that on August 24, 2017, in addition to being filed electronically through the Board's E2E System, the original version of the foregoing Petitioners' Notice of Appeal was filed by hand on 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
Madison Building East, 10B20
600 Dulany Street
Alexandria, VA 22314-5793

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2017, a true and correct copy of the foregoing Petitioners' Notice of Appeal, along with a copy of the Final Written Decision, was filed electronically 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 20005

CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(1), the undersigned certifies that on August 24, 2017, a complete and entire copy of the Petitioners' Notice of Appeal was provided via email, to the Patent Owner by serving the email correspondence addresses of record as follows:

William A. Meunier
Michael T. Renaud
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

James Carmichael
Carmichael IP, PLLC
8000 Towers Crescent Drive, 13th Floor
Tysons Corner, VA 22182

Email: WAMeunier@mintz.com
Email: mtrenaud@mintz.com
Email: mcnewman@mintz.com
Email: ELM_3DS_IPRs@mintz.com
Email: jim@carmichaelip.com

/Naveen Modi/
Naveen Modi

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