

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD; SAMSUNG  
ELECTRONICS AMERICA, INC.; HTC CORP., and HTC  
AMERICA, INC.

Petitioners,

v.

AFFINITY LABS OF TEXAS, LLC,

Patent Owner.

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IPR2014-00209<sup>1</sup>

PATENT 7,953,390 B2

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**PATENT OWNER'S NOTICE OF APPEAL**

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<sup>1</sup> Case IPR2014-00212 was joined with the instant proceeding.

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

Pursuant to 37 C.F.R. § 90.2(a), notice is hereby given that Patent Owner, Affinity Labs of Texas, LLC, 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 May 13, 2015 (Paper No. 52) from case IPR2014-00209 (consolidated with IPR2014-00212), 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 at least: (1) whether the Board erred in finding that claims 16, 19, and 20 of U.S. Patent No. 7,953,390 (“the ’390 patent”) are unpatentable under 35 U.S.C. § 103 over the combination of Galensky and Bork, 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 denying Patent Owner’s request for leave to file a motion to strike Petitioners’ improper supplemental reply evidence in the Order entered on December 11, 2014 (Paper No. 40) and any finding or determination supporting or related to this issue; (3)

whether the Board erred in denying the Patent Owner's Motion to Exclude and any findings or determination supporting or related to this issue; (4) 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; (5) whether the Board erred in denying Patent Owner's request to file a Motion to Supplement with additional evidence in response to the new evidence submitted by Petitioners and failing to consider such additional evidence in the Final Decision, and any finding or determination supporting or related to these issues; and (6) 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, three copies of this Notice of Appeal and the required fee are being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Dated: July 9, 2015

Respectfully submitted,

/s/Ryan M. Schultz  
Registration No. 65,143

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*Attorney for Patent Owner*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 9, 2015, a true and correct copy of the foregoing PATENT OWNER'S NOTICE OF APPEAL was filed electronically through the Patent Trial and Appeal Board's Patent Review Processing System and was filed with the Director of the United States Patent and Trademark office c/o the Office of General Counsel via Priority Mail Express sent to 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

I hereby also certify that on July 9, 2015, three true and correct copies of the foregoing PATENT OWNER'S NOTICE OF APPEAL and the required fee were filed with the Clerk's Office of the United States Court of Appeals for the Federal Circuit via Priority Mail Express sent to the following address:

Clerk of Court  
United States Court of Appeals for the Federal Circuit  
717 Madison Place, N.W.  
Washington, DC 20439

I hereby further certify that on July 9, 2015, a true and correct copy of the foregoing PATENT OWNER'S NOTICE OF APPEAL has been served in its entirety on the Petitioners by electronic mail, as agreed upon by the parties:

For Samsung petitioners:

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For HTC petitioners:

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JSelinger@pattersonsheridan.com  
TKurth@pattersonsheridan.com

Dated: July 9, 2015

/s/ Ryan M. Schultz/