

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

AFFINITY LABS OF TEXAS, LLC,
Patent Owner.

Case IPR2017-00122
Patent No. 9,444,868 B2

PATENT OWNER'S NOTICE OF APPEAL

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 March 26, 2018 in case IPR2017-00122, paper 27, and from all underlying findings, orders, decisions, rulings, and opinions.

In particular, Patent Owner indicates that the issues on appeal include:

- 1) the Board’s judgment that claims 1-20 of U.S. Patent No. 9,444,868 (“the ’868 patent”) are unpatentable;
- 2) the Board’s claim constructions;
- 3) whether the Board erred in finding claims 1-12, 14, 15, and 17-20 of the ’868 patent unpatentable under 35 U.S.C. § 103 over the combination of Treyz and Fuller, 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 claims 13 and 16 of the ’868 patent unpatentable under 35 U.S.C. § 103 over the combination of Treyz, Fuller, and Glaser, 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;

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5) 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 and the required fee are being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Dated: May 24, 2018

Respectfully submitted,

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

Robins Kaplan LLP
800 LaSalle Avenue
2800 LaSalle Plaza
Minneapolis, MN 55402-2015
Phone: (612) 349-8500
E-Mail: rschultz@robinskaplan.com

Attorney for Patent Owner

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Certificate of Service

I hereby certify that on May 24, 2018, a true and correct copy of the foregoing Patent Owner's Notice of Appeal was filed electronically with the Patent Trial and Appeal Board. I further certify that on May 24, 2018, a true and correct copy of the foregoing Patent Owner's Notice of Appeal 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 May 24, 2018, a true and correct copy of the foregoing Patent Owner's Notice of Appeal was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit via CM/ECF.

I hereby further certify that on May 24, 2018, a true and correct copy of the foregoing Patent Owner's Notice of Appeal was served in its entirety on the Petitioners by electronic mail to Petitioner's counsel of record in IPR2017-00122:

Hector Ribera
hector@martonribera.com
David D. Schumann
david@martonribera.com

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Andrew M Holmes
drewholmes@quinnemanuel.com
John McCauley
johnmccauley@quinnemanuel.com

Dated: May 24, 2018

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

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