

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOTIF FOODWORKS, INC.,
Petitioner,

v.

IMPOSSIBLE FOODS INC.,
Patent Owner.

Case No. IPR2023-00206
U.S. Patent No. 9,943,096

PETITIONER'S NOTICE OF CROSS-APPEAL

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a) and 35 U.S.C. §§ 141(c), 142, and 319, that Petitioner Motif FoodWorks, Inc. (“Petitioner”) cross-appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board in Case No. IPR2023-00206, entered June 12, 2024 (Paper No. 55), and from all other underlying orders, decisions, rulings, and opinions. This notice is timely filed within 14 days of the filing of Patent Owner’s Notice of Appeal on August 13, 2024 (Paper No. 56). 37 C.F.R. § 90.3(a)(1); Fed. R. App. Proc. 4(a)(3). For the limited purpose of providing the Director with the information specified in 37 C.F.R. § 90.2(a)(3)(ii), Petitioner indicates that the issues on appeal may include, but are not limited to, the following:

1. Whether the PTAB erred in finding that Petitioner has not shown by a preponderance of the evidence that claims 1-2, 4-7, 9-12, 14-15, and 20-24 of U.S. Patent No. 9,943,096 (“the ’096 Patent”) are unpatentable under 35 U.S.C. §103 as obvious in view of U.S. Patent No. 3,519,437 (“Giacino”), U.S. Patent No. 4,818,557 (“Conrad”), and U.S. Patent Publication 2011/0287467 (“Crane”);
2. Whether the PTAB erred in finding that Petitioner has not shown by a preponderance of the evidence that claims 3 and 16 of the ’096 Patent are unpatentable under 35 U.S.C. §103 as obvious in view of Giacino, Conrad, Crane, and Proulx & Reddy, *Iron Bioavailability of Hemoglobin from Soy Root Nodules Using a Caco-2 Cell Culture Model*, 54 J. AGRIC. & FOOD CHEM. 1518-22 (2006) (“Proulx”);
3. Whether the PTAB erred in finding that Petitioner has not shown by a preponderance of the evidence that claims 8 and 17 of the ’096 Patent are unpatentable under 35 U.S.C. §103 as obvious in view of Giacino, Conrad, Crane, and U.S. Patent No. 3,365,306 (“Perret”);

Notice of Cross-appeal

4. Whether the PTAB erred in finding that Petitioner has not shown by a preponderance of the evidence that claims 18 and 19 of the '096 Patent are unpatentable under 35 U.S.C. §103 as obvious in view of Giacino, Conrad, Crane, and MacLeod et al., *Natural and Simulated Meat Flavors (with Particular Reference to Beef)*, 14 CRITICAL REVIEWS IN FOOD SCI. & NUTRITION 309-437 (1981);
5. Whether the PTAB erred in finding that Crane is not analogous art to the '096 Patent; and
6. Whether the PTAB erred in all other prior interlocutory and underlying orders, decisions, rulings, findings and opinions decided adversely to Petitioner, including procedural orders, discovery orders, or other findings and determinations.

Simultaneous with this submission and in accordance with 37 C.F.R. § 90.2(a), a copy of this Notice of Cross-appeal is being filed with the Director of the United States Patent and Trademark Office, filed with the Patent Trial and Appeal Board, and served upon Petitioner in accordance with 37 C.F.R. § 42.6(e). In addition, this Notice of Cross-appeal is being filed with the Clerk's Office for the United States Court of Appeal for the Federal Circuit in accordance with Fed. Cir. R. 15(a)(1).

Respectfully submitted,

Dated: August 27, 2024

By: /s/ Joe Paunovich
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Motif FoodWorks, Inc.

CERTIFICATE OF FILING

The undersigned hereby certifies that, in addition to being filed electronically via PTAB P-TACTS, the foregoing Notice of Cross-appeal is being filed and served on the Director of the United States Patent and Trademark Office, via email on August 27, 2024 at the following address:

Office of General Counsel
U.S. Patent and Trademark Office
efileSO@uspto.gov

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The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Cross-appeal is being filed electronically by CM/ECF on August 27, 2024, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit.

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Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that a copy of the foregoing Notice of Cross-appeal was served on August 27, 2024, by email at the following addresses:

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Dated: August 27, 2024

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