IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC,

Petitioners,

v.

PROXENSE, LLC

Patent Owner

IPR2024-00233 & IPR2024-01334

U.S. Patent No. 8,886,954

PATENT OWNER'S NOTICE OF APPEAL

NOTICE OF APPEAL of the Final Written Decision of the Patent Trial and Appeal Board ("Board") issued on June 17, 2025, in IPR2024-00233 and IPR2024-01334 to the Court of Appeals for the Federal Circuit under 35 U.S.C. §§ 141(c) and 319 is hereby given pursuant to 35 U.S.C. § 142 and 37 C.F.R. §§ 90.2 and 90.3.

As to provide sufficient information to allow the Director to determine whether to exercise the right to intervene pursuant to 35 U.S.C. § 143, as required by 37 C.F.R. 90.2(a)(3)(ii), and without waiving or forfeiting any issue for appeal, Patent Owner intends raising the following on appeal:

- Violation of the Appointments Clause per the Supreme Court's holding in *US v. Arthrex,* 594 U.S. 1 (2021) for continuing the IPR despite a conflict causing Coke Morgan Stewart, Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office, to recuse herself;
- Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), as arbitrary and capricious, for failing to consider the testimony of Patent Owner's Expert—the only expert qualified to testify on the financial transactions disclosed in the asserted prior art—in violation of *Kyocera Senco Indus. Tools Inc. v. Int'l Trade Comm'n*, 22 F.4th 1369 (Fed. Cir. 2022);

- Violation of the APA for failing to provide a reasoned explanation for dismissing contrary findings of the Central Reexamination Unit (CRU) on the same art and nearly identical claims in co-pending *Ex Parte* Re-Examination 90/015,052 as "having no practical significance; hypothetical or academic" (Paper 35, at 42);
- Violation of the APA for improperly dismissing entry of an Examiner's amendment and withdrawal of rejections over the same prior art in *Ex Parte* Re-Examination 90/015,052 as "not an assessment on the merits" and "of no relevance" (Paper 35, at 44);
- The Board's construction of the challenged claims in direct contradiction of the explicit language of the claims; and
- The Board's determination that all challenged claims are unpatentable.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a), this Notice of Appeal is being filed with the Director of the United States Patent and Trademark Office, and a copy of this Notice of Appeal is being concurrently filed with the Patent Trial and Appeal Board. In addition, a copy of this Notice of Appeal and the required docketing fees are being filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit via CM/ECF.

Dated: September 26, 2025

Respectfully submitted by,

/s/ David L. Hecht
David L. Hecht (Lead Counsel)
(Reg. No. 61,618)
dhecht@hechtpartners.com
HECHT PARTNERS LLP
125 Park Avenue, 25th Floor
New York, NY 10017
P: (212) 851-6821

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 26, 2025, Patent Owner's Notice of Appeal:

- Was filed and served electronically through Board's P-TACTS System;
- Was served by email to the Director of the United States Patent and Trademark Office at the following address: efileSO@uspto.gov;
- Was filed with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, via CM/ECF; and
- Was served on Petitioner by e-mailing copies to the e-mail addresses as provided in Petitioner's Petition.

Dated: September 26, 2025

Respectfully submitted by,

/s/ David L. Hecht

David L. Hecht (Lead Counsel)
(Reg. No. 61,618)
dhecht@hechtpartners.com
HECHT PARTNERS LLP
125 Park Avenue, 25th Floor
New York, NY 10017
P: (212) 851-6821