

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

COREPHOTONICS, LTD.,
Appellant

v.

APPLE INC.,
Appellee

**ANDREW HIRSHFELD, PERFORMING THE
FUNCTIONS AND DUTIES OF THE UNDER
SECRETARY OF COMMERCE FOR
INTELLECTUAL PROPERTY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK
OFFICE,**
Intervenor

2020-1425, 2022-1157, 2022-1159

Appeals from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in No. IPR2018-
01133.

ON MOTION

Before NEWMAN, REYNA, and TARANTO, *Circuit Judges*.

PER CURIAM.

O R D E R

On November 16, 2021, Corephotonics, Ltd. filed a notice of appeal, docketed as Appeal No. 2022-1157, and an amended notice of appeal, docketed as Appeal No. 2022-1159, paying a filing fee for both notices of appeal.

On November 17, 2021, Corephotonics moved unopposed for leave to file a supplemental appendix and for leave to file a corrected combined petition for panel rehearing and rehearing en banc [ECF No. 74].

The court notes that Corephotonics filed a corrected petition for panel rehearing on November 24, 2021, [ECF No. 75] that does not refer to the proposed supplemental appendix. By letter, Corephotonics states this filing was intended to satisfy the court's November 17, 2021 notice of non-compliance in the event the court does not grant its motion.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The motion is granted. The supplemental appendix and corrected petition for panel rehearing attached to the motion are accepted for filing and will be considered in due course. ECF No. 75 is withdrawn and will not be considered.

(2) No later than 20 days from the date of this order, Apple Inc. and Andrew Hirshfeld shall file separate responses, limited to 20 pages, on the issues of (1) whether review by an Acting Director appointed by the Secretary of Commerce is constitutionally sufficient under the Appointments Clause in view of *United States v. Arthrex, Inc.*, 141 S. Ct. 1970 (2021); and (2) whether the review on remand by Andrew Hirshfeld was sufficient to remedy to the Appointments Clause violation in this case.

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(3) Appeal Nos. 2020-1425, 2022-1157, and 2022-1159 are consolidated. The revised official caption is reflected above.

(4) The Clerk of Court is directed to refund the filing fees paid in Appeal Nos. 2022-1157 and 2022-1159. No fee will be required for those notices of appeal.

FOR THE COURT

November 30, 2021
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court