

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EASTMAN KODAK COMPANY, AGFA CORPORATION,
ESKO SOFTWARE BVBA, and HEIDELBERG, USA
Petitioners

v.

CTP INNOVATIONS, LLC
Patent Owner

Case IPR2014-00789
Patent 6,738,155

PATENT OWNER'S NOTICE OF APPEAL

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Patent Owner CTP Innovations, LLC (“Patent Owner”) hereby gives notice pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a) that it appeals to the United States Court of Appeals for the Federal Circuit from the Board's Final Written Decision in IPR2014-00789, entered on November 25, 2015 (Paper No. 34), from the Board's Decision for Institution of *Inter Partes* Review (Paper No. 9), and from all orders, decisions, ruling, and opinions underlying the Final Written Decision. Copies of the Final Written Decision and the Decision for Institution of *Inter Partes* Review are attached to this Notice.

In accordance with 35 C.F.R. § 90.2(a)(3)(ii), Patent Owner asserts that the issues on appeal will include, but are not limited to, the following:

1. Whether the Board’s decision to institute an *inter partes* review proceeding is judicially reviewable, especially in cases where the Board exceeds its statutory authority in instituting an *Inter Partes* review proceeding.
2. Whether the Board erred in its decision to institute *Inter Partes* Review when Petitioner failed to identify all real parties in interest in its Petition as required by 37 C.F.R. § 42.8(b)(1).
3. Whether the Board erred in its decision to grant the Petition and institute *Inter Partes* Review for claims 1-9 of U.S. Patent No. 6,738,155 B1 (Ex. 1001, “the ’155 patent”).

4. Whether the Board erred in determining that claims 1-9 would have been obvious under 35 U.S.C. § 103(a) over the Jebens (Ex. 1005), Apogee (Ex. 1007), and OPI White Paper (Ex. 1008) references.

5. Whether the Board erred in determining that claims 1, 2, 4, 5 and 9 would have been obvious under 35 U.S.C. § 103(a) over the Dorfman (Ex. 1006), Apogee (Ex. 1007), OPI White Paper (Ex. 1008), and Andersson (Ex. 1009) references.

6. Whether the Board erred in determining that claims 3 and 6-8 would have been obvious under 35 U.S.C. § 103(a) over the Dorfman (Ex. 1006), Apogee (Ex. 1007), OPI White Paper (Ex. 1008), Andersson (Ex. 1009), and Adams II (Ex. 1010) references.

7. Whether the Board erred in admitting and not excluding from evidence the first Suetens Declaration (Ex. 1022).

8. Whether the Board erred in admitting and not excluding from evidence the Apogee reference (Ex. 1007).

9. Whether the Board erred in admitting the Apogee reference (Ex. 1007) as prior art, and in determining that it was publicly accessible before July 30, 1999.

10. Whether the Board erred in admitting and not excluding from evidence the Jahn Declaration (Ex. 1023) and Supplemental Suetens Declaration (Ex. 1024), and exhibits thereto.

11. Whether the Jahn Declaration (Ex. 1023) and Supplemental Suetens Declaration (Ex. 1024), and exhibits thereto, were improperly admitted into evidence, either as supplemental information or supplemental evidence.

12. Whether the Board applied the incorrect standard with respect to supplemental information and/or supplemental evidence.

13. Whether the Board erred in considering evidence and alleged prior art that was not submitted with the Petition.

14. Whether the Board erred by construing claims in the '155 patent according to their broadest reasonable interpretation rather than their plain and ordinary meaning.

15. Whether the Board improperly and too broadly construed the relevant claim terms, and failed to apply the appropriate claim construction standard.

16. Whether evidence must be submitted as supplemental information in accordance with 37 C.F.R. § 42.123 in order for the evidence to be admitted as rebuttal evidence with a petitioner's reply.

17. Whether the Board, expressly or implicitly, may consider whether a patent owner does or does not take the deposition of a declarant who submits a declaration in support of a reply.

18. Whether the Board may consider whether to grant or deny a motion to exclude declaration evidence due to the patent owner's not taking the declarant's deposition and submitting observations regarding cross-examination.

Patent owner further anticipates the issues on appeal to include the findings allegedly supporting the above Board determinations, including, without limitation, the Board's interpretation of the claim language, the prior art, and the alleged supporting evidence of obviousness, the Board's consideration of expert evidence, as well as the Board's application of law on the issue of obviousness in making such determinations.

Copies of this Notice of Appeal are being filed simultaneously with the Patent Trial and Appeal Board, the Director of the United States Patent and Trademark office, and with the Clerk of the United States Court of Appeals for the Federal Circuit, along with the required docketing fee.

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