

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RF CONTROLS, LLC,

Petitioner,

v.

A-1 PACKAGING SOLUTIONS, INC.,

Patent Owner.

Patent No. 8,690,057
Issue Date: April 8, 2014

Title: RADIO FREQUENCY IDENTIFICATION SYSTEM FOR TRACKING
AND MANAGING MATERIALS IN A MANUFACTURING PROCESS

Case IPR: IPR2015-00119

**PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,690,057
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.1-.80 && 42.100-.123**

I. GROUNDS FOR STANDING TO PETITION THE BOARD FOR INTER PARTES REVIEW

Pursuant to 37 C.F.R. § 42.104(a), Petitioner submits the following certifications that *inter partes* review is available for United States Patent No. 8,690,057 (“the ‘057 patent” or “‘057”) (Ex. 1001) and that Petitioner has standing to petition the Patent Trial and Appeal Board (the “Board”) concerning same.

A. Certification that the ‘057 Patent May Be Contested by Petitioner

Petitioner certifies that it is not the patent owner and is not barred or estopped from requesting *inter partes* review of ‘057. 37 C.F.R. § 42.101. Neither Petitioner, nor any party in privity with Petitioner, has filed a civil action challenging the validity of any claim in ‘057, and ‘057 has not been the subject of a prior *inter partes* review instituted by Petitioner or any party in privity with Petitioner that has resulted in a final written decision. 35 U.S.C. § 315(e)(1). Petitioner certifies that it has not been served with a complaint alleging infringement of ‘057. This Petition is timely pursuant to the America Invents Technical Corrections Act. *See* Pub. L. No. 112-274, § 1(d)(1) (Jan. 14, 2013).

B. Fee for *Inter Partes* Review

Petitioner has paid the fee specified by 37 C.F.R. § 42.15(a) by credit card at the time of filing. 37 C.F.R. § 42.15(a). No further fees are believed owed at this time but the Director is authorized to charge any further fees deemed due, or credit any overpayment, to Deposit Account No. 50-0975.

C. Mandatory Notices

Per 37 C.F.R. § 42.8(b), Petitioner provides the following notices.

1. Real Party in Interest

Per 37 C.F.R. § 42.8(b)(1), the real party in interest is RF Controls, LLC (“RFC”) located at 1400 South 3rd Street, Suite 220, St. Louis MO 63104.

2. Related Matters

Per 37 C.F.R. § 42.8(b)(2), Petitioner is not aware of any other judicial matter that would affect, or be affected by, a decision in this proceeding. Also, currently pending before the Board is Case No. IPR2014-01536, a Petition for *Inter Partes* Review of claims 1-16 of U.S. Patent No. 8,690,057.

In the above proceeding, Patent Owner (who is also the Patent Owner in this proceeding) disclosed the following as related matters, which may also be related matters in this proceeding:

On February 26, 2014, U.S. Patent Application 14/190,453 was filed claiming priority as a continuation of U.S. Patent No. 8,690,057.

U.S. Patent No. 8,690,057 claims priority as a continuation of PCT Application No. PCT/US13/29408, which was filed on March 6, 2013.

3. Lead and Back-up Counsel

Per 37 C.F.R. § 42.8(b)(3), lead and backup counsel for RFC are as follows:

<u>Lead Counsel</u>	<u>Back-up Counsel</u>
Michael J. Hickey Reg. No. 51,801 <u>mhickey@lewisrice.com</u> (314) 444-7630	Kirk A. Damman Reg. No. 42,461 <u>kdamman@lewisrice.com</u> (314) 444-7783 Benjamin J. Siders Reg. No. 70,411 <u>bsiders@lewisrice.com</u> (314) 444-7805

4. Service Information

Proof of Service of this Petition is provided in **Attachment A** hereto.

II. IDENTIFICATION OF CHALLENGED CLAIMS

Per 37 C.F.R. § 42.104(b), claims 17-30 in the '057 patent are unpatentable as anticipated under pre-AIA 35 U.S.C. § 102(a), (b) and/or (e), and/or as obvious over the prior art under pre-AIA 35 U.S.C. § 103(a). Specifically:

(i) Independent claims 17 and 27 are anticipated under § 102(e) by U.S. Patent Application No. 13/214,823 (Subramanian) (Ex. 1006), published as Publication No. US 2013/0049925 A1 (Ex. 1021);

(ii) Independent claims 17 and 27 are anticipated under § 102(b) or (e) by U.S. Patent No. 8,493,182 (Hofer) (Ex. 1007), published as application Publication No. US 2011/0090062 A1 (Ex. 1022);

(iii) Independent claims 17 and 27 are anticipated under § 102(b) by U.S. Patent No. 7,667,575 (Husak) (Ex. 1009);

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