

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NICHIA CORPORATION and CREE, INC.,
Petitioners,

v.

DOCUMENT SECURITY SYSTEMS, INC.,
Patent Owner.

Case IPR2018-01166
Patent 7,256,486 B2

**PATENT OWNER DOCUMENT SECURITY SYSTEMS, INC.'S
NOTICE OF APPEAL**

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner Document Security Systems, Inc. timely appeals to the United States Court of Appeals for the Federal Circuit from the *Final Written Decision* of the Patent Trial and Appeal Board entered on November 19, 2019 in IPR2018-01166 (Paper 24), and from all underlying findings, determinations, orders, decisions, rulings and opinions regarding the *inter partes* review of U.S. Patent No. 7,256,486 (“the ’486 Patent”), including the DECISION Instituting *Inter Partes* Review entered on November 30, 2018 (Paper 9).

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner anticipates that the issues on appeal may include, but are not limited to, the following, as well as any underlying findings, determinations, orders, decisions, rulings, opinions, or other related issues:

- Whether the Patent Trial and Appeal Board’s decision finding that claims 1-5 of the ’486 patent are unpatentable was “(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority or limitations, or short of statutory right; (D) without observance of procedure required by law; [or] (E) unsupported by substantial evidence” *See* 5 U.S.C. § 706(2)(A)-(E); and

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- Whether the Final Written Decision is erroneous in view of any applicable statutory or constitutional provision, including whether the panel of administrative patent judges was properly appointed under the appointments clause. *See Arthrex, Inc., v. Smith & Nephew, Inc.*, Case No. 2018-2140 (Fed. Cir. Oct. 31, 2019).

Simultaneous with the electronic submission of this Notice of Appeal to the Patent Trial and Appeal Board, a copy of this Notice of Appeal is being filed with the United States Patent and Trademark Office by way of hand delivery to the Office of General Counsel to:

Office of the General Counsel
United States Patent and Trademark Office
Madison Building East, Room 10B20
600 Dulany Street
Alexandria, Virginia 22314

In addition, consistent with Federal Circuit Rules 15(a)(1) and 25(b)(1), this Notice of Appeal, along with the required docketing fees and copies of the decisions of the agency for which review is sought, are being filed electronically with the United States Court of Appeals for the Federal Circuit, and one paper copy of the Notice of Appeal is being provided to the Clerk's Office:

Clerk of Court
United States Court of Appeals for the Federal Circuit
717 Madison Place, NW, Room 401
Washington, DC 20439

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Any required fees to the United States Patent and Trademark Office may be charged to Deposit Account No. 50-1860.

Dated: January 21, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2020, a true and correct copy of the foregoing *Patent Owner's Notice of Appeal* was served via email, by consent, to Petitioners by serving the correspondence email addresses of record as follows:

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