

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASSA ABLOY AB, ASSA ABLOY INC., ASSA ABLOY RESIDENTIAL
GROUP, INC., AUGUST HOME, INC., HID GLOBAL CORPORATION,
ASSA ABLOY GLOBAL SOLUTIONS, INC.,
Petitioner,

v.

CPC PATENT TECHNOLOGIES PTY LTD.,
Patent Owner.

Case IPR2022-01045
Patent 9,269,208

PATENT OWNER'S PRELIMINARY RESPONSE

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Cases

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<i>Bungie v. Worlds Inc.,</i> IPR2015-01264 (PTAB Jan. 14, 2020)	passim
<i>Cisco Sys., Inc. v. Hewlett Packard Enter. Co.,</i> IPR2017-01933 (PTAB Mar. 16, 2018)	16, 17
<i>CPC Patent Technologies Pty Ltd. v. Apple, Inc.,</i> No. 5:22-cv-02553-NC (N.D. Cal., San Jose Division)	4
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<i>Power Integrations, Inc. v. Semiconductor Components Indus., LLC,</i> 926 F.3d 1306 (Fed. Cir. 2019)	16, 17
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<i>Taylor v. Sturgell,</i> 553 U.S. 880 (2008)	18, 40, 41
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<i>Wi-Fi One, LLC v. Broadcom Corp.,</i> 887 F.3d 1329 (Fed. Cir. 2018)	16, 17
<i>Worlds, Inc. v. Bungie, Inc.,</i> 903 F.3d 1237 (Fed. Cir. 2018)	passim

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Other Authorities

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Congressional Record Volume 157, Number 132
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Office Patent Trial Guide, 77 Fed. Reg. 48756, 48759 (Aug. 14, 2012) 16, 17

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