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 IPR2022-01089 Patent 9,269,208 (Claims 10-13)

PATENT OWNER'S RESPONSE



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TABLE OF AUTHORITIES

Cases

Applications in Internet Time, LLC v. RPX Corp., 897 F.3d 1336 (Fed. Cir. 2018)	passim
Bungie v. Worlds Inc., IPR2015-01264 (PTAB Jan. 14, 2020)	passim
Cisco Sys., Inc. v. Hewlett Packard Enter. Co., IPR2017-01933 (PTAB Mar. 16, 2018)	48, 50
CPC Patent Technologies Pty Ltd v. Apple Inc., WDTX-6-21-cv-00165-ADA	8
CPC Patent Technologies Pty Ltd v. HMD Global Oy, WDTX-6-21-cv-00166-ADA	8
Ecolochem, Inc. v. Southern California Edison Co., 227 F.3d 1361 (Fed. Cir. 2000)	45
Google LLC et al v. Cywee Grp. Ltd., IPR2018-01257 (PTAB Jan. 9, 2020)	48
Honeywell Int'l, Inc. v. Universal Avionics Sys. Corp., 493 F.3d 1358 (Fed. Cir. 2007)	10
Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005)	8
RPX Corp. v. Applications in Internet Time, LLC, IPR2015-01750 (PTAB Oct. 2, 2020)	63
SciMed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc., 242 F.3d 1337 (Fed. Cir. 2001)	
Taylor v. Sturgell, 553 U.S. 880 (2008)	49, 63
Trs. of Columbia Univ. v. Symantec Corp., 811 F.3d 1359 (Fed. Cir. 2016)	9



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