

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VEEAM SOFTWARE CORPORATION,
Petitioner,

v.

HYBIR, INC.,
Patent Owner.

Case IPR2020-01040

Patent 9,679,146

PATENT OWNER'S NOTICE OF APPEAL

via E2E
Patent Trial and Appeal Board

via Priority Express Mail
Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

via CM/ECF
United States Court of Appeals for Federal Circuit

Pursuant to 35 U.S.C. §§ 141, 142, and 319; 37 C.F.R. §§ 90.2-90.3; Federal Rule of Appellate Procedure 15; and Federal Circuit Rule 15, Patent Owner Hybir, Inc. (“Patent Owner”) hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“Board”) entered on December 2, 2021 in IPR2020-01040 (Paper No. 36) (“Final Written Decision”), and from all underlying findings, determinations, decisions, opinions, or other related issues, including claim construction determinations, whether the Board exceeded its statutory authority, and issues relating to or arising out of the Administrative Procedures Act regarding the *inter partes* review of U.S. Patent No. 9,679,146 (the “146 Patent”). This notice is timely under 37 C.F.R. § 90.3, having been filed no later than 63 days after the Final Written Decision.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner states that the issue on appeal includes, but is not limited to:

1. Whether the Board erred in determining that claims 1-7 of the ’146 Patent are unpatentable as obvious under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2006/0212439 A1 (“Field”);

Simultaneous with this submission, a copy of this Notice of Appeal is being filed electronically with the Board via the Patent Review Processing System. The requisite number of copies of this Notice of Appeal is also being e-filed with the

Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees. In addition, a true and correct copy of this Notice of Appeal is being filed simultaneously with the Director of the United States Patent and Trademark Office.

Respectfully submitted,

Date: February 3, 2022

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CERTIFICATE OF SERVICE

The undersigned certifies that on February 3, 2022, in addition to being filed electronically through the PTAB's E2E System, the foregoing **PATENT OWNER'S NOTICE OF APPEAL** was filed by Priority Express Mail with the Director of the U.S. Patent and Trademark Office at the following address:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

The undersigned also certifies that on February 3, 2022, a copy of the foregoing **PATENT OWNER'S NOTICE OF APPEAL** was filed via the electronic filing system, CM/ECF, with the Clerk's Office of the U.S. Court of Appeals for the Federal Circuit.

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on February 3, 2022, a copy of the foregoing **PATENT OWNER'S NOTICE OF APPEAL** was served via electronic mail on the following counsel of record for Petitioner:

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