

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TREND MICRO INC.,
Petitioner,

v.

CUPP COMPUTING AS,
Patent Owner.

Case No. IPR2019-00764
Patent No. 8,631,488 B2

PATENT OWNER'S AMENDED NOTICE OF APPEAL

Pursuant to 35 U.S.C. §§ 141 and 142 and 37 C.F.R. §§ 90.2 and 90.3, Patent Owner, CUPP Computing AS (“CUPP Computing”), hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the (i) Final Written Decision of the Patent Trial and Appeal Board (“the Board”) entered August 25, 2020 (Paper 33); (ii) order issued by the Acting Director of the United States Patent and Trademark Office, dated February 4, 2022, that denied rehearing of the Board’s Final Written Decision in IPR2019-00764 without opinion (Paper 37); and from all underlying orders, decisions, rulings, and opinions regarding U.S. Patent No. 8,631,488 (“the ’488 Patent”) at issue in *inter partes* review IPR2019-00764.

The issues on appeal, pursuant to 37 C.F.R. § 90.2(a)(3)(ii) include, but are not limited to: the Board's interpretation and construction of the claims, including the Board’s construction of the terms in the final written decision; the Board’s conclusions regarding prosecution history estoppel and disavowal during prosecution and IPR proceedings; the Board’s determination that Petitioner showed by a preponderance of the evidence that claims 1–3, 5, 6, 9-12, 14, 15, and 18-20 of the ’488 Patent are unpatentable; the Board’s conclusions regarding motivation to combine the asserted references; any finding or determination supporting or related to those issues; the Board’s failure to consider evidence of objective

indicia; the Board's denial of rehearing; all other issues decided adversely to CUPP Computing in any orders, decisions, rulings, and opinions.

Copies of Patent Owner's Amended Notice of Appeal are being filed simultaneously with the Director of the United States Patent and Trademark Office, the Patent Trial and Appeal Board, and the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Dated: March 9, 2022

/James Hannah/

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(Case No. IPR2019-00764)

Attorneys for Patent Owner

CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), that service was made on the Petitioner as detailed below.

Date of service March 9, 2022

Manner of service Electronic Mail (robert.buergi@dlapiper.com;
jim.heintz@dlapiper.com; gianni.minutoli@dlapiper.com)

Documents served PATENT OWNER'S AMENDED NOTICE OF APPEAL

Persons Served Robert Buergi
James M. Heintz
Gianni Minutoli

In addition, the foregoing Patent Owner's Amended Notice of Appeal was filed by Express Mail on March 9, 2022, with the United States Patent and Trademark Office at the following address:

Office of the General Counsel
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

The undersigned hereby certifies that the foregoing Patent Owner's Amended Notice of Appeal was electronically filed with the United States Court of Appeals for the Federal Circuit through CM/ECF on March 9, 2022.

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