

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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DUKE MANUFACTURING CO.,  
Petitioner,

v.

LOW TEMP INDUSTRIES, INC.,  
Patent Owner.

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Case IPR2021-00415  
U.S. Patent No. 9,795,253

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**PATENT OWNER'S NOTICE OF APPEAL**

Pursuant to 37 C.F.R. § 90.2(a), Patent Owner Low Temp Industries, Inc. (“Patent Owner”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board’s Final Written Decision dated July 15, 2022 (Paper 58), and from all underlying findings, orders, decisions, rulings, and opinions that are adverse to Patent Owner. A copy of the Final Written Decision is attached to this Notice.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner further indicates that the issues on appeal include all issues decided adversely to Patent Owner in any orders, decisions, rulings, and opinions. This will likely include, but is not limited to:

1. Whether the Board erred in its determination that claims 1–5, 11, 12, and 14–19 of U.S. Patent No. 9,795,253 (“the ’253 Patent) are unpatentable under 35 U.S.C. § 103 in view of *Finegan and Tipton*, and any finding or determination (factual or legal) supporting that determination;
2. Whether the Board erred in its claim constructions;
3. Whether the Board erred by considering obviousness theories not presented in the petition;
4. Whether the Board erred in its consideration of objective indicia of nonobviousness, including without limitation its determination of insufficient nexus

between the challenged claims and Patent Owner's evidence of secondary considerations; and

5. Whether the Board erred in any finding or determination supporting or relating to the above-referenced issues and any other issues decided adversely to Patent Owner in any orders, decisions, rulings, or opinions of the Board.

Pursuant to 37 C.F.R. §§ 90.2(a)(1) and 104.2, this Notice of Appeal is being filed on the date below with the United States Patent and Trademark Office by way of hand delivery to the Office of the General Counsel:

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

This Notice of Appeal also is being filed on the date below with the Director of the United States Patent and Trademark Office by way of first class mail to the Office of the General Counsel:

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

Pursuant to 37 C.F.R. § 90.2(a)(2) and Federal Circuit Rule 15, this Notice of Appeal is being filed electronically on the date below with the United States Court of Appeals for the Federal Circuit along with the required docketing fees.

Dated: September 15, 2022

Respectfully submitted,

/s/David A. Reed

David A. Reed

Reg. No. 61,226

*Counsel for Patent Owner*

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on the date below a copy of the foregoing **PATENT OWNER’S NOTICE OF APPEAL** was served by email upon the following:

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**STINSON LLP**

Dated: September 15, 2022

*/s/David A. Reed*  
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David A. Reed  
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*Counsel for Patent Owner*