

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

OPENSKY INDUSTRIES, LLC,
INTEL CORPORATION,
Petitioners,

v.

VLSI TECHNOLOGY LLC,
Patent Owner.

Case IPR2021-01064*
Patent 7,725,759

**PATENT OWNER VLSI TECHNOLOGY, LLC'S
AMENDED NOTICE OF APPEAL**

via PRACTS
Patent Trial and Appeal Board

via Email
Director
Office of the General Counsel
United States Patent and Trademark Office
efileSO@uspto.gov

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

* Intel Corporation, which filed a petition in IPR2022-00366, has been joined as a party to this proceeding.

Pursuant to 35 U.S.C. §§ 141(c), 142, and 319, 37 C.F.R. §§ 90.2(a) and 90.3(a), Rule 4(a) of the Federal Rules of Appellate Procedure, and 28 U.S.C. § 1295(a)(4)(A), Patent Owner VLSI Technology LLC hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered May 12, 2023 by the Patent Trial and Appeal Board (Paper 135); the Director's decisions dated December 15, 2023 (Paper 141) and March 11, 2024 (Paper 149); and all other underlying and related findings, orders, decisions, rulings, opinions, or other determinations merged into those decisions.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner further indicates that the issues on appeal may include, but are not limited to:

- (i) The Board's judgment that claims 1, 14, 17, 18, 21, 22, and 24 of the '759 Patent are unpatentable, including any underlying questions of law or fact, including, for avoidance of doubt, any questions regarding the power to reach the judgment and the process of reaching it;
- (ii) The Board's improper grant of Intel's joinder motion;
- (iii) The Board's denial of Patent Owner's Motion to Terminate as to Intel;
- (iv) The Board's improper reliance on hearsay evidence;

- (v) The Director's violation of 35 U.S.C. § 6(c), as modified by *United States v. Arthrex, Inc.*, 141 S. Ct. 1970 (2021), by acting unilaterally in the first instance rather than only through rehearing;
- (vi) The assignment of a single Board panel to issue both a final written decision and a decision on compelling merits after the trial concluded, which denied Patent Owner due process;
- (vii) The Board's improper adjustment of the time period to issue a Final Written Decision retroactively;
- (viii) Violations of the Administrative Procedure Act and VLSI's due-process rights;
- (ix) The Director's refusal to terminate the IPR as a sanction for OpenSky's misconduct;
- (x) The Director's refusal to require OpenSky to comply with discovery orders in connection with sanctions proceedings or order additional discovery;
- (xi) The Director's refusal to order greater sanctions against OpenSky, including higher monetary sanctions; and
- (xii) Any other Board and/or Director finding, determination, judgment, or order on any issue decided adversely to, Patent Owner.

Patent Owner is concurrently filing true and correct copies of this Notice of Appeal, along with the required fees, with the United States Court of Appeals for the Federal Circuit, and with the Patent Trial and Appeal Board.

Respectfully submitted,

/ Kenneth J. Weatherwax /

Kenneth J. Weatherwax, Reg. No. 54,528

LOWENSTEIN & WEATHERWAX LLP

Counsel for Patent Owner

Date: May 10, 2024

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the following document was served by electronic service, by agreement between the parties, on the date signed below:

**PATENT OWNER VLSI TECHNOLOGY LLC'S
AMENDED NOTICE OF APPEAL**

The names and address of the parties being served are as follows:

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Respectfully submitted,

/ Kenneth J. Weatherwax /

Date: May 10, 2024

CERTIFICATE OF FILING WITH USPTO

The undersigned hereby certifies that, pursuant to 37 C.F.R. § 90.2(a), the following document was electronically filed by email or equivalent service with the Director of the United States Patent and Trademark Office via the Office of the General Counsel, United States Patent and Trademark Office, efileSO@uspto.gov, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date signed below:

**PATENT OWNER VLSI TECHNOLOGY LLC'S
AMENDED NOTICE OF APPEAL**

Respectfully submitted,

/ Kenneth J. Weatherwax /

Date: May 10, 2024

CERTIFICATE OF FILING WITH COURT OF APPEALS

The undersigned hereby certifies that, pursuant to 37 C.F.R. § 90.2, Fed. R. App. Proc. 15(a)(1), Fed. Cir. R. 15(a)(1) & 52, and Manual of Patent Examining Procedure 1216.01, the following document was electronically filed in Portable Document Format (PDF) with the United States Court of Appeals for the Federal Circuit, via electronic CM/ECF, accompanied by the requisite fee paid on pay.gov, on the date signed below:

**PATENT OWNER VLSI TECHNOLOGY LLC'S
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Respectfully submitted,

/ Kenneth J. Weatherwax /

Date: May 10, 2024