

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GTNX, Inc.
Petitioner

v.

INTTRA, Inc.
Patent Owner

Cases
CBM2014-00073
Patent No. 7,761,387¹

PETITIONER GTNX, INC.'S NOTICE OF APPEAL

¹ An identical notice is filed in each of the following proceedings: CBM2014-00072 (Patent No. 7,756,794); CBM2014-00073 (Patent No. 7,761,387); CBM2014-00074 (Patent No. 7,752,142); CBM2014-00075 (Patent No. 7,827,119).

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, VA 22313-1450

Pursuant to 37 C.F.R. § 90.2(a), that Petitioner GTNX, Inc. (“GTNX”) hereby appeals under 35 U.S.C. §§ 141 and 142, 28 U.S.C. § 1295 (a)(4)(A), 28 U.S.C. § 1651, and/or 5 U.S.C. §§ 702 and 704 to the United States Court of Appeals for the Federal Circuit from the Termination entered on December 10, 2014 (Paper No. 20 (CBM2014-00072, -00073, -00075) and Paper No. 21 (CBM2014-00074)) (the “Termination”). The Termination was entered after an institution decision in each case holding that it is more likely than not all claims are unpatentable. 35 U.S.C. § 324(a).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), GTNX further indicates that the issues on appeal include, but are not limited to, waiver by INTTRA, Inc. of the grounds for Termination, the PTAB’s statutory construction of 35 U.S.C. § 325(a)(1), application of *SecureBuy, LLC v. CardinalCommerce Corp*, Case CBM2014-00035 (PTAB Apr. 25, 2014) (Paper 12) to the cases at issue, the PTAB’s failure to follow § 18(a)(1) of the AIA as well as the Director’s properly promulgated rules, and any finding or determination supporting or related to those issues, as well as all other issues decided adversely to GTNX in any orders, decisions, rulings, and opinions.

GTNX fully expects the Director to intervene in this appeal, 35 U.S.C. §143. However, given the Board’s failure to explain its departure from the plain meaning of the statutes, the Director’s rules and positions that the Solicitor has taken before

the Court of Appeals for the Federal Circuit, GTNX also expects the intervention to be in support of the appellant. *Cf. Abrutyn v. Giovannello*, 15 F.3d 1048 (Fed. Cir. 1994) (Office amicus brief in support of remand to reach merits).

Copies of this Notice of Appeal are being filed simultaneously with the Director, the Board, and the Clerk of the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Dated: January 9, 2015

/Michael T. Rosato/
Michael T. Rosato, Lead Counsel
Reg. No. 52,182

CERTIFICATE OF FILING

I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board's PRPS, the foregoing "Petitioner GTNX, Inc.'s Notice of Appeal" was filed by Express Mail on this 9th day of January, 2015, with the Director of the United States 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

CERTIFICATE OF FILING

I hereby certify that a true and correct copy of the foregoing "Petitioner GTNX, Inc.'s Notice of Appeal" was filed electronically by CM/ECF on this 9th day of January, 2015, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
Washington, D.C. 20439

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e), this is to certify that I caused to be served a true and correct copy of the foregoing “Petitioner GTNX, Inc.’s Notice of Appeal” on the Patent Owner at the correspondence address of the Patent Owner as follows:

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Respectfully submitted,

Dated: January 9, 2015

/Michael T. Rosato/
Michael T. Rosato, Lead Counsel
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