

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CURT G. JOA, INC.,

Petitioner,

v.

FAMECCANICA.DATA S.P.A.,

Patent Owner.

Case IPR2016-00906

Patent 6,994,761 B2

PETITIONER CURT G. JOA, INC.'S NOTICE OF APPEAL

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

Pursuant to 35 U.S.C. §§ 141-44 and 319, and 37 CFR §§ 90.2(a) and 90.3, and Fed. R. App. P. 3(c)(1) notice is hereby given that Petitioner Curt G. Joa, Inc. appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board entered on 11 October 2017 (Paper 79, Final Written Decision), and from all adverse findings, orders, notices, decisions, rulings, and opinions in the underlying proceeding.

Pursuant to Fed. Cir. R. 15(a)(3), the address and telephone number of counsel is:

Daniel R. Johnson
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For the limited purpose of providing the Director of the United States Patent and Trademark Office the information requested under 37 CFR § 90.2(a)(3)(ii), Petitioner states that the issues on appeal may include, but are not limited to the Patent Trial and Appeal Board's decision in its Final Written Decision that:

The claims of the '761 patent are not unpatentable as anticipated by either the Coslett or Kielpikowski references; all findings and determinations in support of that finding and all other issues relating to the issues on which the *inter partes* review was granted; and all issues decided adversely to the Petitioner in the proceeding as a whole. These issues include but are not limited to:

(1) the Board's misapprehension of law with respect to the broadest reasonable interpretation of "through the aperture" in light of the specification of the '761 patent (Paper 79, pp. 18-20);

(2) the Board's misapprehension of law in its reliance on a proposed "exemplary embodiment of Claim 1" as found in the testimony of Patent Owner's expert witness, Mr. Blevins (Paper 79, p. 16-17);

(3) the Board's misapplication of the law of anticipation, including its requirement that the prior art must disclose all embodiments of the claimed invention (Paper 79, p. 25); see, e.g., *Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001) ("When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art.");

(4) the Board’s misapprehension of fact and law regarding whether the processes disclosed in Coslett would “necessarily or inevitably result in the creation of all of the bond types of the ‘761 Patent” (Paper 79, p. 25);

(5) the Board’s errors of fact and law as to whether Kielpikowski’s disclosure of the claimed bonds in its Figs. 16 – 18 constitutes anticipation (Paper 79, pp. 29, 31-32) in the context of the written description of Kielpikowski;

(6) the Board’s error in misinterpreting the plain meaning of the word “through” to mean only “by means of” in the Kielpikowski reference (Paper 79, p. 32); and

(7) the Board’s error in misinterpreting the plain meaning of the word “autogenous” in the Kielpikowski reference (Paper 79, p. 33).

Simultaneous with this submission, a copy of this Notice of Appeal is being filed with the Patent Trial and Appeal Board. In addition, this Notice of Appeal, along with the required docketing fees, is being filed, paid electronically, and mailed in triplicate to the Clerk’s Office for the United States Court of Appeals for the Federal Circuit.

No fees are believed to be due to the United States Patent and Trademark Office in connection with this filing, but authorization is hereby given for any required fees to be charged to Petitioner's Deposit Account No. 06-2360.

Respectfully submitted,

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Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the PETITIONER'S NOTICE OF APPEAL has been served in its entirety on 8 December 2017 on counsel of record for the Patent Owner by U.S. Express Mail, and by emailing the following addresses:

Peter G. Pappas
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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the PETITIONER'S NOTICE OF APPEAL was filed electronically through the Patent Trial and Appeal Board's PRPS filing system on 8 December 2017, and additionally that a true and correct copy was mailed to the Office of the General Counsel of the United States Patent and Trademark Office, pursuant to 37 C.F.R. § 104.2(a), on the same date via U.S. Express Mail to 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
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, pursuant to Fed. Cir. R. 15, a true and correct copy of the PETITIONER'S NOTICE OF APPEAL was filed electronically on 8 December 2017 with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, and the filing fee was paid electronically. Additionally, three copies were served via U.S. Express Mail to the following address:

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

Respectfully submitted,

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