

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

FLUKE CORPORATION
Petitioner

v.

AMETEK DENMARK A/S
Patent Owner

Case IPR2016-01428
U.S. Patent No. 8,342,742 C1

PETITIONER'S NOTICE OF APPEAL

June 14, 2019

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

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a)(1), that Petitioner Fluke Corporation (“Petitioner”) hereby timely appeals under 35 U.S.C. §§ 141, 142, and 319 to the United States Court of Appeals for the Federal Circuit from the Final Written Decision on Remand entered on April 15, 2019 (Paper 48), and from all underlying orders, decisions, rulings and opinions.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Petitioner appeals whether the Board erred in finding that Petitioner failed to meet its burden of proving, by a preponderance of the evidence, that claims 1, 2, 4–6, and 18–20 of U.S. Patent No. 8,342,742 are unpatentable under 35 U.S.C. § 102, and, or, that claims 1-20 of U.S. Patent No 8,342,742 are unpatentable under 35 U.S.C. § 103, including whether the Board erred in construing the claim term “temperature calibration unit” and the preamble term “temperature calibration system;” whether the Marcarino reference disclosed a “temperature calibration unit” and “temperature calibration system,” or whether this would have been an obvious use or modification of Marcarino’s disclosure; whether a skilled artisan would have found it obvious to combine Kögler and Bronlund; whether the Board erred in failing to apply appropriate law regarding intended use

limitations and inherent anticipation; and whether the Board violated the Administrative Procedure Act or otherwise erred in failing to consider evidence supporting unpatentability that was submitted by the patent owner in its Patent Owner's Preliminary Response and Response to Institution (Paper 5 and Paper 14) and/or in refusing to consider arguments in Petitioner's Replies to the Patent Owner's Response and Remand Response (Paper 19 and Paper 44) that rebutted new distinctions raised in the Patent Owner's Responses.

As stated above, the appeal also extends to all underlying findings or determinations and all other issues decided adversely to Petitioner in this proceeding.

Simultaneously with this submission, a copy of this Notice of Appeal is being filed with the Patent Trial and Appeal Board. In addition, a copy is being electronically filed with the United States Court of Appeals for the Federal Circuit (via CM/ECF), along with the required docketing fee. Furthermore, a copy of this Notice of Appeal is being served on Patent Owner Ametek Denmark A/S.

Respectfully submitted: June 14, 2019

/s/ Ryan J. McBrayer

Ryan J. McBrayer (Lead Counsel)
Reg. No. 54,299

PERKINS COIE, LLP

1201 Third Avenue, 49th Floor
Seattle, WA 98101

T: 206-359-3073

F: 206-359-4073

Email: mcbayer-ptab@perkinscoie.com

Bing Ai (Backup Counsel)

Reg. No. 43,312

PERKINS COIE, LLP

11988 El Camino Real, Suite 350
San Diego, CA 92130

T: 858-720-5707

F: 858-720-5799

Email: ai-ptab@perkinscoie.com

David J. Baltazar (Backup Counsel)

Reg. No. 53,964

PERKINS COIE, LLP

700 13th Street, NW Suite 600
Washington, DC 2005-0390

T: 202.434.1607

F: 202.654.9138

Email: dbaltazar@perkinscoie.com

Johnathan R. Putman (*pro hac vice*)

PERKINS COIE, LLP

1201 3rd Avenue, 49th Floor
Seattle, WA 98101

T: 206-359-3895

F: 206-359-4895

Email: jputman@perkinscoie.com

Attorneys for Petitioner
Fluke Corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, in addition to being filed electronically through the Patent Trial and Appeal Board's End to End System (PTAB E2E), a true and correct copy of the foregoing PETITIONER'S NOTICE OF APPEAL is being filed by hand 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
Madison Building East, 10B20
600 Dulany Street
Alexandria, Virginia 22314

The undersigned also certifies that a true and correct copy of PETITIONER'S NOTICE OF APPEAL and the docketing fee of \$500 are being electronically filed via CM/ECF, and Pay.gov, respectively, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit.

Pursuant to 37 C.F.R. § 42.6(e) the undersigned also certifies that a true and correct copy of the foregoing PETITIONER'S NOTICE OF APPEAL has been served in its entirety this 14th day of June, 2019, by electronic mail on the Patent Owner via its attorneys of record:

Benjamin F. Leace
Christopher H. Blaszkowski
Andrew J. Koopman
RATNER PRESTIA LLP
Email: beleace@ratnerprestia.com
Email: cblaszkowski@ratnerprestia.com
Email: akoopman@ratnerprestia.com
Email: electronicservice@ratnerprestia.com

Respectfully submitted,

Dated: June 14, 2019

/s/ Isaac C. Funk
Isaac C. Funk
Paralegal Assistant
PERKINS COIE, LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099