

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SEOUL SEMICONDUCTOR CO., LTD.,
SEOUL SEMICONDUCTOR, INC., and CREE, INC.,

Petitioners,

v.

DOCUMENT SECURITY SYSTEMS, INC.,

Patent Owner.

Case IPR2018-00333¹
Patent 7,256,486 B2

**PATENT OWNER DOCUMENT SECURITY SYSTEMS, INC.'S
NOTICE OF APPEAL**

¹ Cree, Inc., which filed a Petition in IPR2018-01205, has been joined as a petitioner in this proceeding.

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner Document Security Systems, 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 June 10, 2019 in IPR2018-00333 (Paper 33), and from all underlying findings, determinations, orders, decisions, rulings and opinions regarding the *inter partes* review of U.S. Patent No. 7,256,486 (“the ’486 Patent”), including the DECISION Instituting *Inter Partes* Review entered on June 21, 2018 (Paper 9).

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner anticipates that the issues on appeal may include, but are not limited to, the following, as well as any underlying findings, determinations, orders, decisions, rulings, opinions, or other related issues:

- Whether the Patent Trial and Appeal Board’s decision finding that claims 1-3 of the ’486 patent are unpatentable was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; ... in excess of statutory jurisdiction, authority or limitations, or ... without observance of procedure required by law; [or] unsupported by substantial evidence” 5 U.S.C. § 706(2)(A)-(E); and

- Whether *inter partes* review, an adversarial process used by the Patent and Trademark Office (PTO) to analyze the validity of existing patents, violates the Constitution by extinguishing property rights through a non-Article III forum without a jury and without affording due process to patent owners.

Simultaneous with the electronic submission of this Notice of Appeal to the Patent Trial and Appeal Board, a copy of this Notice of Appeal is being filed with the United States Patent and Trademark Office by way of hand delivery to the Office of General Counsel to:

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

In addition, consistent with Federal Circuit Rules 15(a)(1) and 25(b)(1), this Notice of Appeal, along with the required docketing fees and copies of the decisions of the agency for which review is sought, are being filed electronically with the United States Court of Appeals for the Federal Circuit, and one paper copy of the Notice of Appeal is being provided to the Clerk's Office:

Clerk of Court
United States Court of Appeals for the Federal Circuit
717 Madison Place, NW, Room 401
Washington, DC 20439

Case IPR2018-00333
Patent 7,256,486 B2

Any required fees to the United States Patent and Trademark Office may be charged to Deposit Account No. 50-1860.

Dated: August 12, 2019

Respectfully submitted,

By: /s/ Wayne M. Helge
Wayne M. Helge (Reg. No. 56,905)
Davidson Berquist Jackson &
Gowdey, LLP
8300 Greensboro Drive, Suite 500
McLean, VA 22102
Telephone: 571-765-7700
Fax: 571-765-7200
Email: whelge@dbjg.com
Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2019, a true and correct copy of the foregoing *Patent Owner's Notice of Appeal* was served via email, by consent, to Petitioners by serving the correspondence email addresses of record as follows:

Michael Eisenberg (Reg. No. 50,643)
michael.eisenberg@hkllaw.com
31 West 52nd Street
New York, NY 10019
Telephone: (212) 513-3529
Facsimile: (212) 385-9010

Charles H. Sanders (Reg. No. 47,053)
charles.sanders@lw.com
Latham & Watkins LLP
200 Clarendon Street
Boston, MA 02116

Jonathan M. Strang (Reg. No. 61,724)
jonathan.strang@lw.com
Latham & Watkins LLP
555 Eleventh Street, NW, Ste. 1000
Washington, DC 20004-1304

Blaney Harper (Reg. No. 33,897)
bharper@jonesday.com
Douglas H. Pearson (Reg. No. 47,851)
dhpearson@jonesday.com
Yury Kalish (Reg. No. 72,538)
ykalish@jonesday.com

JONES DAY
51 Louisiana Ave., N.W.
Washington, DC 20001

Matthew W. Johnson (Reg. No. 59,108)
mwjohnsone@jonesday.com
JONES DAY
500 Grant Street, Suite 4500
Pittsburgh, PA 15219

Joseph M. Sauer (Reg. No. 47,919)
jmsauer@jonesday.com
JONES DAY
901 Lakeside Ave.
Cleveland, OH 44114

By: /s/ Wayne M. Helge
Wayne M. Helge (Reg. No. 56,905)
Davidson Berquist Jackson &
Gowdey, LLP
8300 Greensboro Drive, Suite 500
McLean, VA 22102
Telephone: 571-765-7700
Fax: 571-765-7200
Email: whelge@dbjg.com