

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NICHIA CORPORATION,

Petitioner,

v.

DOCUMENT SECURITY SYSTEMS, INC.,

Patent Owner.

Case No. IPR2018-01165

U.S. Patent No. 7,524,087

PETITIONER'S NOTICE OF APPEAL

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and 37 C.F.R. § 90.2, Petitioner Nichia Corporation (“Nichia”) hereby provides notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (the “Board”) entered on December 10, 2019, in IPR2018-01165 (Paper 28) during *inter partes* review of U.S. Patent 7,524,087 (“the ’087 patent”). This notice is timely pursuant to 37 C.F.R. § 90.3 because it is filed within 63 days of the Board’s denial of Nichia’s request for rehearing.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Nichia’s issues on appeal include, but are not limited to, the following, as well as any underlying findings, determinations, orders, decisions, rulings, opinions, or other related issues:

- (i) Whether the Board’s determination that claims 1 and 6–19 of the ’087 patent are not unpatentable over U.S. Patent No. 6,653,661 (“Okazaki”) in view of Japanese Patent Application Publication No. 2001-118868 (“Kyowa”) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and further was unsupported by substantial evidence;
- (ii) Whether the Board’s determination that claims 1, 6, and 9–19 of the ’087 patent are not unpatentable over Okazaki in view of either Japanese Design Patent Registration No. 1176348 (“Kamada”) or U.S. Patent No. 4,959,761 (“Critelli”) was arbitrary, capricious, an abuse of discretion, or

- otherwise not in accordance with law and further was unsupported by substantial evidence;
- (iii) Whether the Board's determination that claims 7 and 8 of the '087 patent are not unpatentable over Okazaki in view of either Kamada or Critelli, in further view of U.S. Patent Application Publication No. 2008/0041625 ("Cheong") was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and further was unsupported by substantial evidence;
 - (iv) Whether the Board's determination that claims 9–19 of the '087 patent were not shown to be unpatentable over U.S. Patent Application Publication No. 2004/0135156 ("Takenaka") in view of Kyowa, Kamada, or Critelli was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and further was unsupported by substantial evidence;
 - (v) Whether the Board's determination that claims 1, 6, and 9–19 of the '087 patent were not shown to be unpatentable over Kamada was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and further was unsupported by substantial evidence; and
 - (vi) Whether the Board's determination that claims 7 and 8 of the '087 patent were not shown to be unpatentable over Kamada in view of Kyowa or

Cheong was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and further was unsupported by substantial evidence.

Pursuant to 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a), this Notice is being filed with the Director of the United States Patent and Trademark Office.

Simultaneous with this submission, a copy of this Notice is being filed with the Patent Trial and Appeal Board.

In addition, consistent with Federal Circuit Rules 15(a), 25(b)(1), and 52, a copy of this Notice, along with the required docketing fees, is being filed with the Clerk's office of the United States Court of Appeals for the Federal Circuit.

Dated: September 11, 2020

Respectfully submitted,

Shearman & Sterling LLP

/Patrick R. Colsher/
Patrick R. Colsher (Reg. No. 74,955)

Lead Counsel for Petitioner Nichia Corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Petitioner's Notice of Appeal was served on September 11, 2020, via electronic mail on counsel of record for Patent Owner as follows:

Wayne M. Helge (Reg. No. 56,905)
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In accordance with 37 C.F.R. §§ 90.2(a)(1) and 104.2(a), the undersigned hereby certifies that, in addition to being filed electronically through the Board's E2E System, the foregoing Petitioner's Notice of Appeal was filed and served by Express Mail on September 11, 2020, 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
P.O. Box 1450
Alexandria, VA 22313-1450

In accordance with 37 C.F.R. § 90.2(a)(2), the undersigned hereby certifies that on September 11, 2020, a true and correct copy of the foregoing Petitioner's Notice of Appeal was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit via CM/ECF.

/Patrick R. Colsher/

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