

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETAPP, INC.,
Petitioner,

v.

KOM SOFTWARE, INC.,
Patent Owner.

Case IPR2019-00592
Patent 6,438,642

PATENT OWNER'S NOTICE OF APPEAL

Mail Stop
Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 35 U.S.C. §§ 141 and 142 and 37 C.F.R. § 90.2(a), Patent Owner KOM Software, Inc. (“Patent Owner”) 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 (“Board”) entered July 27, 2020 (Paper 35), and from all underlying findings, orders, decisions, rulings, and opinions, including, without limitation the institution decision entered July 31, 2019 (Paper 10).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner states that the issues for appeal include, but are not limited to: the Board’s determination that claims 1-7, 10, 12-17, and 20 of U.S. Patent No. 6,438,642 have been shown by a preponderance of the evidence to be unpatentable; the Board’s consideration of the expert testimony, prior art, and other evidence in the record; the Board’s determinations in the institution decision; and the Board’s factual findings, conclusions of law, or other determinations supporting or relating to the above issues.

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, a copy of this Notice, along with the required docketing fee, is being filed with the Clerk’s office of the United States Court of Appeals for the Federal Circuit.

Date: September 28, 2020

Respectfully Submitted,

/s/ Gregory S. Donahue

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Counsel for Patent Owner

KOM Software, Inc.

CERTIFICATE OF FILING AND SERVICE

The undersigned certifies that, in addition to being filed electronically through the Patent Trial and Appeal Board's E2E, the foregoing Notice of Appeal was filed by Express Mail on September 28, 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

The undersigned certifies that a copy of the foregoing Notice of Appeal, along with the required docket fee, was filed on September 28, 2020, with the Clerk's Office for the United States Court of Appeals for the Federal Circuit through the Court's CM/ECF filing system.

The undersigned certifies service pursuant to 37 C.F.R. § 42.6(e) of a copy of this Notice of Appeal by electronic mail on September 28, 2020, on the counsel of record for Petitioners at the following addresses:

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Dated: September 28, 2020

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