

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICRON TECHNOLOGY INC.,  
Petitioner

v.

SECUREWAVE STORAGE SOLUTIONS, INC.,  
Patent Owner

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Case No. IPR2019-00932  
Patent No. 7,036,020

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**PATENT OWNER'S NOTICE OF APPEAL**

Pursuant to 35 U.S.C. §§ 141(c) and 319, the patent owner, SecureWave Storage Solutions, Inc. (“SecureWave”) hereby gives notice that it appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered by the Patent Trial and Appeal Board on October 2, 2020 (Paper 48) and from all underlying orders, decisions, rulings and opinions. A copy of the Final Written Decision is attached to this notice of appeal.

This notice of appeal is timely filed within 63 days of that final written decision. *See* 37 C.F.R. § 90.3(a)(1).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), SecureWave indicates that the issues on appeal include the Board’s determinations of unpatentability of claims 1–14 of U.S. Patent No. 7,036,020, including, for example, one or more of the following:

- (1) The Board’s determinations that claims 1–3, 5, and 12–14 are unpatentable under 35 U.S.C. § 103 as obvious over Hamlin (U.S. Patent No. 7,003,674, Ex. 1004) in view of Fisherman (U.S. Patent No. 5,586,301, Ex. 1005) and further in view of knowledge of an ordinarily skilled artisan;
- (2) the Board’s determinations that claims 3 and 11 are unpatentable under 35 U.S.C. § 103 as obvious over Hamlin in view of Fisherman further in view

- of Silvester (U.S. Patent No. 7,155,615, Ex. 1006) and yet further in view of knowledge of an ordinarily skilled artisan;
- (3) the Board’s determinations that claim 4 is unpatentable under 35 U.S.C. § 103 as obvious over Hamlin in view of Fisherman further in view of Carter (U.S. Patent No. 6,738,907, Ex. 1007) and yet further in view of knowledge of an ordinarily skilled artisan;
- (4) the Board’s determinations that claims 6–10 are unpatentable under 35 U.S.C. § 103 as obvious over Hamlin in view of Fisherman further in view of Mirov (U.S. Patent No. 6,138,236, Ex. 1008) and yet further in view of knowledge of an ordinarily skilled artisan;
- (5) the Board’s determinations that claims 7–10 are unpatentable under 35 U.S.C. § 103 as obvious over Hamlin in view of Fisherman further in view of Mirov further in view of Silvester and yet further in view of knowledge of an ordinarily skilled artisan;
- (6) the Board’s explicit and implicit constructions of the language of claims 1–14, including, for example, “firmware,” “authority records,” “one or more authority records,” “master authority record,” “firmware for reading data from and writing data to the storage medium,” “wherein only the firmware is permitted to access the secure data and the one or more

- authority records,” “root assurance,” “secure data partition for storing secure data and one or more authority records,” “wherein the one or more authority records define access permissions relating to the secure data partition and the secure data,” “secure data partition contains a master authority record” and “wherein each of the one or more authority records contains one public-private key pair for authenticating data that originates from the security partition”;
- (7) the Board’s findings that Hamlin, Fisherman, Silvester, Carter, and/or Mirov disclose or suggest the limitations of claims 1–14, including, for example, “firmware for reading data from and writing data to the storage medium,” “only the firmware is permitted to access the secure data and the one or more authority records,” “one or more authority records,” “a master authority record,” “secure data partition for storing secure data and one or more authority records,” “wherein the one or more authority records define access permissions relating to the secure data partition and the secure data,” “secure data partition contains a master authority record” and “wherein each of the one or more authority records contains one public-private key pair for authenticating data that originates from the security partition”;

- (8) the Board's finding that one of ordinary skill in the art would have combined the teachings of Hamlin, Tygar (Ex. 1017), Fisherman, Silvester, Carter, and/or Mirov to arrive at the claimed invention; and
- (9) the Board's expungement of and failure to consider Exhibit 2009, excerpts of the prosecution history of U.S. Patent Appl. No. 09/630,256, the application that led to the Hamlin patent.

SecureWave notes that the issues on appeal may also include (10) the Board's failure to adequately consider all relevant evidence, including the testimony of Jay Jawadi, an expert witness who testified on behalf of SecureWave during the IPR trial; (11) the Board's failure to address arguments made by SecureWave; (12) the Board's mischaracterization of SecureWave's arguments; (13) the Board's failure to explain adequately the basis for its decision; (14) the Board's improper assignment of the burden of proof on SecureWave; (15) the Board's failure to afford SecureWave its full due-process and other procedural rights guaranteed by the U.S. Constitution and/or the Administrative Procedure Act, including, for example, providing adequate notice, opportunity to be heard, and opportunity to present rebuttal evidence; and (16) unconstitutionality of the appointments of the Board judges who decided this case.

SecureWave also appeals from any and all findings, determinations, statutory interpretations, regulatory interpretations, and/or procedures supporting or relating to the aforementioned issues, as well as all other issues decided adversely to SecureWave in any written or verbal order, decision, ruling, or opinion.

Respectfully Submitted,



Date: November 6, 2020

Cabrach Connor  
Registration No. 53,837  
Lead Counsel for Patent Owner  
CONNOR KUDLAC LEE PLLC

**CERTIFICATE OF SERVICE**

I certify that on November 6, 2020, the foregoing **PATENT OWNER'S NOTICE OF APPEAL** and all documents filed with it were:

(1) served via electronic mail upon the following counsel for the Petitioner:

Jeremy Jason Lang (Lead Counsel): PTABdocketJJL2@orrick.com  
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(2) sent by Priority Mail Express® to the Director of the United States Patent and Trademark Office, at the following address:

Office of Solicitor  
United States Patent & Trademark Office  
Mail Stop 8, P.O. Box 1450  
Alexandria, VA 22313-1450

(3) filed, along with the required fee, with the United States Court of Appeals for the Federal Circuit via its CM/ECF electronic filing system.

Date: November 6, 2020



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