

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

FILED: **10/1/10**  
U.S. DISTRICT COURT  
EASTERN DISTRICT COURT  
DAVID J. MALAND, CLERK

**CUMMINS-ALLISON CORP.,  
an Indiana Corporation,**

**Plaintiff/Counterclaim-defendant**

**v.**

**SHINWOO INFORMATION &  
TELECOMMUNICATIONS CO., LTD.,  
n/k/a SBM CO., LTD.,  
a corporation of the Republic of Korea  
and  
AMRO-ASIAN TRADE, INC.,  
a corporation of Hawaii,**

**Defendants/Counterplaintiffs.**

**Case No. 9:07-CV-196  
(CONSOLIDATED)**

**Judge Ron Clark**

**CUMMINS-ALLISON CORP.'S NOTICE OF CROSS-APPEAL**

Notice is hereby given that Cummins-Allison Corp. (Cummins), plaintiff/counterclaim defendant in the above named case, hereby appeals to the United States Court of Appeals for the Federal Circuit from the following Judgments and Orders (including citations therein and court hearings related thereto) against defendant/counterplaintiff SBM Co., Ltd.:

- The Order and Judgment from the October 30, 2009 Final Judgment and Permanent Injunction [Doc. #219], that Claim 55 of U.S. Patent No. 6,381,354 (the 354 Patent). . . [is] declared INVALID;
- The following Orders from the November 13, 2009 Revised Memorandum and Order [Doc. #223] (revising the October 30, 2009 Memorandum and Order [Doc. #218]), including, *inter alia*, that part: (1) granting Defendants Motions of Judgment as a Matter of Law (JMOL) that the Priority Date of Claim 55 of the

354 Patent is May 12, 1998 and that said Claim 55 is invalid as anticipated by the Cumminsø JetScan 4062; and (2) denying Plaintiffø JMOL Motions that the JetScan 4062 is not prior art to Claim 55 of the 354 Patent and that said claim and patent are valid.

- September 17, 2010 Order Denying Plaintiffø Motion to Reconsider JMOL That Claim 55 of the 354 patent is Invalid as Anticipated By The JetScan 4062 (Doc. #265).

Dated: October 1, 2010

Respectfully submitted,

/s/ J. Thad Heartfield

J. Thad Heartfield  
Texas State Bar No. 09346800  
The Heartfield Firm  
2195 Dowlen Road  
Beaumont, Texas 77706  
(409) 866-3318 (Telephone)  
(409) 866-5789 (Facsimile)

Edward L. Foote  
Illinois State Bar No. 8446083  
Scott J. Szala  
Illinois State Bar No. 3122175  
Peter C. McCabe  
Illinois State Bar. No. 6190379  
WINSTON & STRAWN LLP  
35 West Wacker Drive, Suite 4200  
Chicago, Illinois 60601  
(312) 558-5600 (Telephone)  
(312) 558-5700 (Facsimile)

Stephen G. Rudisill  
David C. McKone  
NIXON PEABODY, LLP  
161 North Clark Street, 48th Floor  
Chicago, Illinois 60601  
(312) 425-3900 (Telephone)  
(312) 425-3909 (Facsimile)

Lawrence Phillips  
SIEBMAN, REYNOLDS, BURG, PHILLIPS &  
SMITH, LLP  
Federal Courthouse Square  
300 North Travis Street  
Sherman, Texas 75090  
(903) 870-0070 (Telephone)  
(903) 870-0066 (Facsimile)

**ATTORNEYS FOR PLAINTIFF CUMMINS-  
ALLISON CORPORATION**

**CERTIFICATE OF SERVICE**

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 1st day of October, 2010. Any other counsel of record will be served by first class mail.

/s/ J. Thad Heartfield  
J. Thad Heartfield