

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WIRTGEN AMERICA, INC.
Petitioner,

v.

CATERPILLAR INC.,
Patent Owner.

Case No. IPR2022-01397
Patent No. 9,975,538

PATENT OWNER'S NOTICE OF CROSS-APPEAL

Pursuant to 37 C.F.R. § 90.2(a) and 35 U.S.C. §§ 141(c), 142, and 319, Caterpillar Inc. (“Patent Owner”) respectfully gives notice that it cross-appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board’s Final Written Decision entered on March 12, 2024 (Paper 27), and from all other underlying orders, decisions, rulings, and opinions. Wirtgen America, Inc. (“Petitioner”) filed a Notice of Appeal on May 6, 2024. This cross-appeal is timely filed under 37 C.F.R. § 90.3 and Fed. R. App. P. 4(a)(3).

For the limited purpose of providing the Director of the United States Patent and Trademark Office with the information specified in 37 C.F.R. § 90.2(a)(3)(ii), the issues on appeal include the Board’s determination that claims 1-12 of U.S. Patent No 9,975,538 (“the ’538 patent”) were shown to be unpatentable under 35 U.S.C. §103 in view of the grounds of patentability on which trial was instituted (Paper 7). The issues on appeal also include any finding or determination supporting or related to these issues, as well as all other issues decided adversely to Patent Owner in any order, decision, ruling, or opinion.

Simultaneous with this filing and in accordance with 37 C.F.R. § 90.2(a)(1), this Notice of Cross-Appeal is being filed with the Director and served on Petitioner in accordance with 37 C.F.R. § 42.6(e). This Notice of Cross-Appeal, along with the required fees, is also being filed with the Clerk’s Office for

the United States Court of Appeals for the Federal Circuit in accordance with Fed.
Cir. R. 15(a)(1).

Dated: May 20, 2024

Respectfully Submitted,

/Matthew A. Argenti/

Matthew A. Argenti

Reg. No. 61,836

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CERTIFICATES OF FILING AND SERVICE

I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board's P-TACTS system, the foregoing Notice of Cross-Appeal is being filed and served on the Director of the United States Patent and Trademark Office, via e-mail at the following:

**Office of General Counsel
U.S. Patent and Trademark Office
efileSO@uspto.gov**

.....

I hereby certify that a true and correct copy of the foregoing Notice of Cross-Appeal was filed electronically by CM/ECF on this 20th May 2024, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit.

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Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served a true and correct copy of the foregoing Notice of Cross-Appeal on the Petitioner at the electronic service addresses of the Petitioner as follows:

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/Mathew A. Argenti/

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