

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETSKOPE, INC.,
Petitioner,

v.

FORTINET, INC.,
Patent Owner.

Case No. IPR2023-00456
U.S. Patent No. 11,036,856

PATENT OWNER'S NOTICE OF APPEAL

Office of the General Counsel
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a) and 35 U.S.C. §§ 141(c), 142, and 319, that Patent Owner Fortinet, Inc. (“Patent Owner”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board in Case No. IPR2023-00456, entered July 9, 2024 (Paper No. 28) (attached as Exhibit A). This notice is timely filed within 63 days of the issuance of the Final Written Decision. For the limited purpose of providing the Director with the information specified in 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner indicates that the issues on appeal may include, but are not limited to, the following:

1. Whether the PTAB erred in finding that Petitioner has shown by a preponderance of the evidence that claims 1-28 of U.S. Patent No. 11,036,856 (“the ’856 Patent”) are unpatentable;
2. Whether the PTAB erred in finding that Petitioner has shown by a preponderance of the evidence that claims 1-7, 9-18, 20-26, and 28 of the ’856 Patent are unpatentable under 35 U.S.C. § 103 as obvious in view of U.S. Pat. No. 11,281,775 B2 (“Burdett”) and FortiSandbox – Administration Guide, Version 2.3.2 (“FortiSandbox”);
3. Whether the PTAB erred in finding that Petitioner has shown by a preponderance of the evidence that claims 1, 2, 4, 5, 7-10, 12-14, 16, 18-22, 24, and 26-28 of the ’856 Patent are unpatentable under 35 U.S.C. § 103 as obvious in view of U.S. Pat. No. 9,811,662 (“Sharpe”), U.S. Pat. App. Pub. No. 2015/0100357 A1 (“Seese”), and U.S. Pat. App. Pub. No. 2020/0050686 A1 (“Kamalapuram”);

4. Whether the PTAB erred in finding that Petitioner has shown by a preponderance of the evidence that claims 3, 6, 11, 15, 17, 23, and 25 of the '856 Patent are unpatentable under 35 U.S.C. § 103 as obvious in view of Sharpe, Sees, Kamalapuram and U.S. Pat. No. 10,382,468 ("Dods");
5. Whether the PTAB erred in all other prior interlocutory and underlying orders, decisions, rulings, findings and opinions decided adversely to Patent Owner, including procedural orders, discovery orders, or other findings and determinations.

Simultaneous with this submission and in accordance with 37 C.F.R. § 90.2(a), a copy of this Notice of Appeal is being filed with the Director of the United States Patent and Trademark Office, filed with the Patent Trial and Appeal Board, and served upon Petitioner in accordance with 37 C.F.R. § 42.6(e). In addition, this Notice of Appeal, along with the required docketing fees, is being filed with the Clerk's Office for the United States Court of Appeal for the Federal Circuit in accordance with Fed. Cir. R. 15(a)(1).

Respectfully submitted,

Dated: September 10, 2024

By: /s/ James M. Glass
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Counsel for Patent Owner

CERTIFICATE OF FILING

The undersigned hereby certifies that, in addition to being filed electronically via PTAB P-TACTS, the foregoing document was filed by Express Mail on September 10, 2024, 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450.

CERTIFICATE OF FILING

The undersigned hereby certifies that a true and correct copy of the foregoing document was filed electronically by CM/ECF on September 10, 2024, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on September 10, 2024, by email at the following addresses:

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