

NOTE: This disposition is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**CATERPILLAR INC.,**  
*Appellant*

v.

**WIRTGEN AMERICA, INC.,**  
*Cross-Appellant*

**ANDREW HIRSHFELD, PERFORMING THE  
FUNCTIONS AND DUTIES OF THE UNDER  
SECRETARY OF COMMERCE FOR  
INTELLECTUAL PROPERTY AND DIRECTOR OF  
THE UNITED STATES PATENT AND TRADEMARK  
OFFICE,**  
*Intervenor*

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2019-2294, 2019-2338

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Appeals from the United States Patent and Trademark  
Office, Patent Trial and Appeal Board in No. IPR2017-  
02185.

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**JUDGMENT**

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JAMES R. BARNEY, Finnegan, Henderson, Farabow,  
Garrett & Dunner, LLP, Washington, DC, argued for

appellant. Also represented by JOSHUA GOLDBERG, ALEXANDER EDISON HARDING, DAVID MROZ.

RALPH WILSON POWERS, III, Sterne Kessler Goldstein & Fox, PLLC, Washington, DC, argued for cross-appellant. Also represented by JON WRIGHT; MARK ANDREW KILGORE, RYAN D. LEVY, SETH R. OGDEN, WILLIAM E. SEKVI, JOHN FRANCIS TRIGGS, Patterson Intellectual Property Law, PC, Nashville, TN.

BRIAN RACILLA, Office of the Solicitor, United States Patent and Trademark Office, Alexandria, VA, for intervenor. Also represented by THOMAS W. KRAUSE, FARHEENA YASMEEN RASHEED.

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THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (O'MALLEY, MAYER, and TARANTO, *Circuit Judges*).

**AFFIRMED. See Fed. Cir. R. 36.**

ENTERED BY ORDER OF THE COURT

February 3, 2021

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner  
Clerk of Court