

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAP AMERICA, INC.  
Petitioner

v.

Dr. Lakshmi Arunachalam  
Patent Owner

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Case CBM2013-00013  
Patent 8,037,158

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**PETITIONER'S REPLY TO PATENT OWNER'S  
CHALLENGING VALIDITY AND IMPARTIALITY OF  
PROCEEDING DUE TO FRAUD UPON THE OFFICE AND  
REQUEST FOR FRAUD INVESTIGATION BY THE  
INSPECTOR GENERAL**

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U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

## LIST OF EXHIBITS

### SAP

<u>Exhibit No.</u>	<u>Document Description</u>
SAP 1001	U.S. Patent No. 8,037,158 to Arunachalam (filed Oct. 30, 2007; issued Oct. 11, 2011) (“the ’158 patent”).
SAP 1002	Prosecution History of U.S. Patent No. 8,037,158.
SAP 1003	Declaration of Dr. Marvin Sirbu (including Curriculum Vitae of Dr. Sirbu, attached as Appendix A; “Requirements for Internet Hosts—Communication Layers” by Braden as Appendix B; and, “Stanford Federal Credit Union Pioneers Online Financial Services” published by Business Wire as Appendix C).
SAP 1004	Lipis, A. H. et al., “Electronic Banking,” The Stock Market, 4 <sup>th</sup> Edition, John Wiley & Sons, New York, 1985, 227 pages.
SAP 1005	Stanford Federal Credit Union Pioneers Online Financial Services.
SAP 1006	U.S. Patent No. 5,220,501 to Lawlor et al. (filed Mar. 15, 1984; issued Mar. 3, 1987).
SAP 1007	Computerworld, June 26, 1995.
SAP 1008	Citizens Bank and Financial Fusion – Professional Development and Services Agreement (redacted)
SAP 1009	Order Granting Stay in <i>Pi-Net International, Inc. v. Citizen’s Financial Group Inc.</i> , No. 1:12-cv-00355 (D. Del.), June 21, 2013.
SAP 1010	Declaration of Dr. Marvin Sirbu in Support of Petitioner’s Reply to Patent Owner’s Corrected Response to Petition.
SAP 1011	Patent Owner’s Corrected Response in proceeding IPR2013-00194 filed Feb. 5, 2014, Paper No. 34.

SAP 1012 Joint Claim Construction Chart in *Pi-Net v. JP Morgan Chase & Co., et al*, No. 1:12-cv-00356 (D. Del), March 13, 2013.

SAP 1013 Memorandum Opinion in *Pi-Net International, Inc. v. JPMorgan Chase & Co.*, No. 1:12-cv-00282 (D. Del), May 14, 2014.

**Currently Filed**

SAP 1014 Leader Techs. V. Facebook, Inc., 2012 U.S. App. Lexis 17259

For the reasons set forth below, Petitioner SAP America, Inc. opposes Patent Owner's September 15, 2014 unsupported and scandalous accusations that the district court committed fraud on the Patent Office by failing to disclose "financial conflicts of interest" in the holdings of J.P. Morgan, Wells Fargo, Fedex and Citibank interests. (PO's Notice at 2-3.)

### **1. Patent Owner's Fraud Argument Is Baseless.**

PO argues that the *Markman* Opinion is fraudulent because of the district court's so-called financial conflicts of interest. PO presents no argument to support its conclusory statements about fraud and conflicts of interest. (PO's Notice at 3).

Sadly, this is not the first time PO has tried this gambit, baselessly arguing judicial bias resulting from ownership of mutual funds. (*See* SAP 1020 at 2-3). In *Leader Tech* (an unrelated case), the Federal Circuit rejected this PO's attacks on the Federal Circuit's honor, ruling that her allegations were at odds with Federal Circuit law and the Canons of Judicial Conduct and did not represent a conflict of interest, because "ownership in a mutual or common investment fund that holds securities is not a 'financial interest' in such securities unless the judge participates in the management of the fund." (*Id* at 3.)

In her instant challenge, PO has not provided any evidence that the accused judges—Chief Judge Stark and Judge Andrews—ever participated in the management of any of their respective mutual fund holdings. Moreover, PO does

not provide any evidence that the *Markman* Opinion issued by Judge Robinson was fraudulent. But as SAP will show in the next section, PO's baseless and scurrilous charges of fraud have no relevance to these Patent Office proceedings.

## **2. The Board Did Not Rely On The *Markman* Hearing In This CBM.**

It is well-known that, absent good cause shown, a CBM proceeding must be completed within one year of institution. 35 U.S.C. § 316(a)(11). Here, PO's baseless arguments do not justify a stay that extends the proceeding. Moreover, PO incorrectly argues that the district court's *Markman* Opinion somehow constitutes material fraud on the Office. However, the Board did not rely on the district court's *Markman* Opinion because, in a *covered business method* review, the Board construes claims using the broadest reasonable interpretation, a different standard from than used by the district court. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48766 (Aug. 14, 2012). Furthermore, the Board could not rely on the *Markman* Opinion because the *Markman* Opinion was issued on May 14, 2014, months after the Institution Decision.

SAP asks the Board to deny PO's request to suspend this proceeding.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

/Lori A. Gordon/

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Attorney for Petitioner

Date: September 17, 2014

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