

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAP AMERICA, INC.,
Petitioner
v.
LAKSHMI ARUNACHALAM,
Patent Owner.

Case IPR2013-00194
Patent 8,108,492 B2
Case IPR2013-00195
Patent 5,987,500
Case CBM2013-00013
Patent 8,037,158 B2¹

Before KARL D. EASTHOM, WILLIAM V. SAINDON, and
BRIAN J. McNAMARA, *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

ORDER DENYING PATENT OWNER'S REQUEST TO SUSPEND
PROCEEDINGS AND REFER MATTERS TO THE INSPECTOR GENERAL
Conduct of the Proceeding
37C.F.R. § 42.5

¹ This Order addresses issues that are identical in related cases. Therefore, we exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in any subsequent papers.

Background

At the time petitions in IPR2013–00194, IPR2013–00195, and CBM2013–00013 (“the Subject Proceedings”) were filed, U.S. Patent No. 8,108,492 B2, U.S. Patent No. 5,987,500, and U.S. Patent No. 8,037,158 B2 (“the Subject Patents”), were owned by Pi-Net International, Inc. In each proceeding, counsel for Pi-Net International, Inc. filed a Power of Attorney signed on behalf of Pi-Net International, Inc. and Mandatory Notices entering their appearances. On September 9, 2014, an assignment from Pi-Net International, Inc. to the inventor, Dr. Lakshmi Arunachalam, was recorded in the United States Patent and Trademark Office at Reel 033684, Frame 0252. Dr. Arunachalam (“Patent Owner”) did not grant a Power of Attorney. As Pi-Net International, Inc. no longer owns of the Subject Patents, previous counsel of record are no longer authorized to act on behalf of Patent Owner. On September 10, 2014, Dr. Arunachalam filed a Mandatory Notice appearing *pro se*. (IPR2013-00194, Paper 62; IPR2014-00195, Paper 55; CBM2013-00013, Paper 56).²

Patent Owner’s Allegations

On September 15, 2014, in each of the Subject Proceedings, Patent Owner filed a paper titled Patent Owner Challenging Validity and Impartiality of Proceedings Due To Fraud Upon The Office and Request For Fraud Investigation By The Inspector General (“Request for Relief”). IPR2014-00194, Paper 63; IPR2014-00195, Paper 56; CBM2013-00013, Paper 57.

Patent Owner’s allegations are not directed at the Board. Patent Owner alleges that in Case No. 1:12-cv-282-SLR, the judges of the district court failed to

² On September 16, 2014, during an initial conference in cases IPR2014-00413 and IPR2014-00414, which concern a patent having the same specification as that of the Subject Patents, we reminded Patent Owner of the complexity of these proceedings and urged Patent Owner to engage appropriate counsel.

disclose financial conflicts of interest, resulting in an irreparably tainted Markman Order “upon which the Office relies in the pending reexamination decision.”³
Request for Relief 3.

Patent Owner’s Request to Suspend Proceedings

Patent Owner requests that the Board suspend the Subject Proceedings pending resolution of the alleged financial conflicts of interest by the members of the district court. *Id.* at 4. For the reasons discussed below, we deny Patent Owner’s requests.

Patent Owner’s references to the Markman Order “upon which the Office relies” are incorrect because they do not recognize the difference between the claim construction approach applied in the Subject Proceedings and that applied in the district court. The Subject Proceedings are *inter partes* reviews and a covered business method patent review. In contrast to the claim construction standard applied in the district court, in the Subject Proceedings, we apply the broadest reasonable construction to the claims in these unexpired patents. 37 C.F.R. §§ 42.100(b); 42.200(b). Thus, in these proceedings we do not rely upon the Markman Order issued by the district court and there is no basis to suspend the Subject Proceedings.

Request for Referral to Inspector General

Patent Owner also requests that we refer the district court’s alleged fraud on the U.S. Patent and Trademark Office, Request for Relief 2, to the Office of the

³ Patent Owner is seeking suspension of two *inter partes* reviews and one covered business method patent proceeding. Patent Owner’s reference to the pending reexamination decision appears to be a reference to the Subject Proceedings, which are not reexamination proceedings. During the September 16, 2014, initial conference in related proceedings IPR-2014-00413 and IPR2014-00414, Patent Owner stated that the patent in that proceeding was not involved in any reexamination proceedings “at the CRU [central reexamination unit].”

Inspector General to conduct a fraud investigation, *id.* at 4. The Patent Trial and Appeal Board is not the appropriate forum for the Patent Owner to request an investigation by the Inspector General. Even if it were, the Request for Relief contains only Patent Owner’s allegations. There is no evidence to support these allegations. Patent Owner states that it incorporates by reference “[a]ll filings in Case Nos. 1:12-cv-355-RGA and 1:12-cv-282-SLR between the dates of August 25, 2014 and September 16, 2014.” Such incorporation by reference is not permitted under our rules. 37 C.F.R. § 42.6(a)(3). In addition, filings concerning collateral matters not related to these proceedings would not be appropriate. Further, as noted above, the Markman Order in the district court reflects the application of a claim construction standard that is different from the claim construction standard applied in these proceedings. Patent Owner has not established any connection between the district court’s Markman Order and the claim constructions applied in the Subject Proceedings that would result in the alleged fraud on the Office. Thus, we deny Patent Owner’s request concerning the Inspector General.

Failure to Obtain Authorization Prior to Filing Request for Relief

Finally, we note that Patent Owner filed its Request for Relief, which we treat as a motion, 37 C.F.R. § 42.20(a), without obtaining prior authorization from the Board, 37 C.F.R. § 42.20(b). During an initial conference in related cases IRR2014-00413 and IPR2014-00414, we authorized Petitioner to file a short Opposition to Patent Owner’s Request for Relief in these proceedings. *SAP Am. Inc., v. Arunachalam*, Case IPR2014-00413, Initial Conference Summary (Paper 17) at 5-6 (PTAB Sep. 17, 2014). We also reminded Patent Owner of the requirement to seek authorization before filing any papers with the Board. *Id.* at 6. Patent Owner did not seek our authorization to file a Reply, nor did we authorize

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Patent Owner to file a Reply to Petitioner’s Opposition. Nevertheless, without obtaining authorization, on September 18, 2014, Patent Owner filed a Response to Petitioner Opposition (“Patent Owner’s Response”) in these proceedings.

IPR2013-00194, Paper 65; IPR2013-00195, Paper 58; IPR2013-00013, Paper 59.

In view of Patent Owner’s *pro se* status, we have considered the Request for Relief and Patent Owner’s Response. However, we again remind Patent Owner of the requirement to request authorization before filing any further requests for relief, or other papers not provided for under the rules, in proceedings before the Board. Further unauthorized motions, requests for relief, or other papers will not be considered and sanctions may be imposed.

In consideration of the above, it is

ORDERED that Patent Owner’s Request for Relief is DENIED;

FURTHER ORDERED that Patent Owner is to comply with the provisions of 37 C.F.R. 42 *et. seq.* in proceedings before the Board.

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