

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 B2
Case CBM2014-00018
Patent 8,037,158 B2¹

Per curiam

ORDER EXPUNGING UNAUTHORIZED FILINGS
AND IMPOSING SANCTIONS
Conduct of the Proceeding
37 C.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.

IPR2013-00194; IPR2013-00195; CBM2013-00013; CBM2014-00018
Patents 8,108,492 B2; 5,987,500; 8,037,158 B2; 8,037,158 B2

Filings to Be Expunged

On November 24, 2014, Lakshmi Arunachalam (“Patent Owner”) filed a paper styled Patent Owner’s Request For Relief From Judge’s Financial Conflict of Interest. IPR2013-00194, Paper 70; IPR2013-00195, Paper 63; CBM2013-00013, Paper 64; CBM2014-00018, Paper 30. (“the First Subject Papers”). The First Subject Papers request that the Board take certain actions and constitute a motion. 37 C.F.R. 42.20(a). A motion will not be entered by the Board without prior authorization. 37 C.F.R. 42.20(b). Patent Owner did not seek or obtain authorization to file the First Subject Papers. .

Prior to entry of this Order, we determined that the First Subject Papers contained sensitive information and unsubstantiated allegations concerning Judge Brian McNamara, who is administering the proceeding. Because Patent Owner had not sought authorization or guidance concerning filing the First Subject Papers, we could have expunged them immediately. Instead, we *sua sponte* designated the First Subject Papers as accessible to the Board and the parties only, while we considered action on Patent Owner’s unauthorized filings.

On November 26, 2014, the First Subject Papers were released publicly on an Internet web site referring to Patent Owner by name. The web site includes a picture of Judge McNamara superimposed on a background of simulated targets with a skull and crossbones in a yellow triangle and a link to the First Subject Papers. The “who is” database for the linked site hosting the First Subject Papers lists identification information, at least some of which appears to be fabricated. Attempts to intimidate Judge McNamara, or any of the other persons identified on the Web site, are unacceptable.

On December 3, 2014, Patent Owner filed still another unauthorized paper in each of these proceedings entitled Patent Owner’s Notice To PTAB About Denial

IPR2013-00194; IPR2013-00195; CBM2013-00013; CBM2014-00018
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of Due Process To Patent Owner and Motion To Recuse PTAB Judges (“Second Subject Papers”). IPR2013-00194, Paper 71; IPR2013-00195, Paper 64; CBM2013-00013, Papers 65 and 66 (filed twice); CBM2014-00018, Paper 31. The Second Subject Papers do not mention the Internet publication of the First Subject Papers or the attempts to intimidate Judge McNamara. Although the Second Subject Papers complain about our designating the First Subject Papers as “Board and Parties Only,” they do not explain how that designation denies Patent Owner due process. Instead, Patent Owner repeats bald, unsubstantiated allegations against Judge McNamara, alleges without any basis that Judge McNamara is biased toward Petitioner, states that Patent Owner is reporting Judge McNamara to various ethics committees, seeks Judge McNamara’s recusal, and requests that all previous decisions negative to Patent Owner be reversed. Patent Owner does not request reversal or reconsideration of a decision favorable to Patent Owner in another proceeding over which Judge McNamara presided.

As indicated in the First Subject Papers, Patent Owner’s allegations stem from a theory that an official’s ownership of a *de minimis* interest in an entity not before the official but opposed to the Patent Owner in another proceeding, or ownership of any share of a publicly available, diversified mutual fund, not controlled by that official, presents a conflict when the fund holds shares in any party opposing the Patent Owner in any proceeding. This is not the law and Patent Owner has not demonstrated any conflict of interest by any judge in the proceedings involving Patent Owner. Patent Owner’s unauthorized motions are DENIED.

Patent Owner failed to request authorization to file either the First Subject Papers or the Second Subject Papers. Therefore, the First Subject Papers and the Second Subject Papers will be expunged.

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Sanctions

We repeatedly have admonished Patent Owner to refrain from unauthorized filings. On September 15, 2014, alleging financial impropriety by the judges of the District Court for the District of Delaware, without first obtaining authorization, 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”). IPR2013-00194, Paper 63; IPR2013-00195, Paper 56; CBM2013-00013, Paper 57; CBM2014-00018, Paper 27. The following day, on September 16, 2014, during an initial conference in IPR2014-00413 and IPR2014-00414, we reminded Patent Owner of the requirement to seek authorization before filing motions with the Board. We reiterated this admonition in our Initial Conference Summary in those proceedings. *SAP America, Inc., v. Lakshmi Arunachalam* Case IPR2014-00413, Initial Conference Summary and Order to File Transcript (Paper 17, 5–6) (PTAB Sep. 17, 2014). Notwithstanding our prior admonitions, on September 18, 2014, in IPR2013-00194, IPR2013-00195, and CBM2013-00013, Patent Owner filed yet another unauthorized paper styled Patent Owner’s Response to Petitioner’s Opposition. IPR2013-00194, Paper 65; IPR2013-00195, Paper 58; CBM2013-00013, Paper 59. In denying Patent Owner’s motion, we advised Patent Owner: “Further unauthorized motions, requests for relief, or other papers will not be considered and sanctions may be imposed.” *SAP America, Inc., v. Lakshmi Arunachalam*, Order Denying Patent Owner’s Request to Suspend Proceedings and Refer Matters to the Inspector General, Case IPR2013-00194 (Paper 66, 5) (PTAB, Sep. 18, 2014), Case IPR2014-00195(Paper 59, 5) (PTAB, Sep. 18, 2014), Case CBM2013-00013 (Paper 60, 5) (PTAB, Sep. 18, 2014), CBM2014-00018 (Paper 28, 5) (Sep. 25, 2014) .

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Patents 8,108,492 B2; 5,987,500; 8,037,158 B2; 8,037,158 B2

Patent Owner's filing of the First Subject Papers on November 24, 2014, is Patent Owner's third offense. Patent Owner's filing of the Second Subject Papers on December 3, 2014 constitutes a fourth offense. In view of Patent Owner's refusal to conform to our rules, despite our repeated admonitions, we impose the following sanctions: (1) Patent Owner's access to upload documents to the Patent Review Processing System (PRPS) for all past, present, and future proceedings is terminated immediately; (2) Patent Owner is prohibited from accessing, or attempting to access, PRPS to upload documents under a different name or through any real or corporate person, party, entity, agent, or successor in interest, other than qualified lead counsel; (3) any qualified lead counsel who, in any proceeding before the Board, wishes to represent a party opposing a challenge to a patent in which the Patent Owner is an inventor, or in which Patent Owner holds an ownership interest, either directly or through an ownership interest in a business entity of any kind, or in which Patent Owner has any right or ability to advise a party concerning any action to be taken in the proceeding, must first contact the Board to obtain permission to use PRPS to upload filings in that proceeding; (4) Patent Owner may file *paper* documents by mailing them to the address provided for in the rules – however, before Patent Owner submits *any paper* filings in any proceeding, Patent Owner must first obtain authorization of the Board by emailing Trials@uspto.gov or calling the Board to request a conference call; (5) any unauthorized filings will be expunged in their entirety. Patent Owner is reminded to serve all papers filed by mail on opposing counsel and to copy opposing counsel on any correspondence with the Board. Patent Owner must comply with all other rules and procedures in proceedings affected by this Order. Notwithstanding the above, Patent Owner may view, but not upload, documents on PRPS using the public access facility.

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