

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Case CBM2014-00018
Patent 8,037,158 B2

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

Background

At the time petition in CBM2014-00018 (“the Subject Proceeding”) was filed, U.S. Patent No. 8,037,158 B2, (the “Subject Patent”), was owned by Pi-Net International, Inc. Counsel for Pi-Net International, Inc. filed a Power of Attorney signed on behalf of Pi-Net International, Inc. and a Mandatory Notice entering their appearances. On September 8, 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 the Subject Patent, 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*. Paper 26.¹

Patent Owner’s Allegations

On September 15, 2014, 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”). Paper 27.

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 disclose financial conflicts of interest, resulting in an irreparably tainted Markman

¹ 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 Patent, we reminded Patent Owner of the complexity of these proceedings and urged Patent Owner to engage appropriate counsel.

Order “upon which the Office relies in the pending reexamination decision.”²
Request for Relief 3.

Patent Owner’s Request to Suspend Proceedings

Patent Owner requests that the Board suspend the Subject Proceeding 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 this proceeding and that applied in the district court. CBM2014-00018 is a covered business method patent review. In contrast to the claim construction standard applied in the district court, in this proceeding, we apply the broadest reasonable construction to the claims in the unexpired ’894 Patent. 37 C.F.R. §§ 42.100(b); 42.200(b). Thus, in the Subject Proceeding we do not rely upon the Markman Order issued by the district court and there is no basis to suspend the Subject Proceeding.

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 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

² Patent Owner is seeking suspension of a covered business method patent proceeding. Patent Owner’s reference to the pending reexamination decision appears to be a reference to the Subject Proceeding, which is not a reexamination proceeding. On September 16, 2014, during an initial conference in related proceedings IPR2014-00413 and IPR2014-00414, Patent Owner stated that the patent in that proceeding is not involved in any reexamination proceedings “at the CRU [central reexamination unit].”

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." *Id.* at 3. 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 applicable to this proceeding. Patent Owner has not established any connection between the district court's Markman Order and the claim constructions applied by the Board to the Subject Patent 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 IPR2013-00194, IPR2013-00195 and CBM2013-00013. *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 Patent Owner to file a Reply to Petitioner's Opposition. Nevertheless, without obtaining authorization, on September 18,

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2014, Patent Owner filed a Response to Petitioner Opposition (“Patent Owner’s Response”) in those 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.

PETITIONER:

Michael Q. Lee
Lori A. Gordon
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
Mlee-PTAB@skgf.com
Lgordon-PTAB@skgf.com

PATENT OWNER:

Lakshmi Arunachalam
laks22002@yahoo.com