

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLAID TECHNOLOGIES, INC.,
Petitioner,

v.

YODLEE, INC.,
Patent Owner.

Case CBM2016-00056
Patent 6,510,451 B2

Before KEVIN F. TURNER, MICHAEL W. KIM, and
MICHAEL R. ZECHER, *Administrative Patent Judges*.

KIM, *Administrative Patent Judge*.

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5

A trial was instituted in this case on October 3, 2016. Paper 10. By rule, a request for rehearing of the decision to institute trial was due on October 17, 2016. 37 C.F.R. § 42.71(d) (stating that a request for rehearing is due “[w]ithin 14 days of the entry of . . . a decision to institute a trial”).

On November 28, 2016, Patent Owner contacted the Board to request permission to file a late request for rehearing concerning the Decision on Institution in view of the recent decision of the U.S. Court of Appeals for the Federal Circuit in *Unwired Planet, LLC v. Google Inc.*, No. 2014-00006, 2016 WL 6832978 (Fed. Cir. Nov. 21, 2016), which ruled that the Board's reliance on whether the patent claims activities "incidental to" or "complimentary to" a financial activity as the legal standard for determining whether a patent is a covered business method patent was not in accordance with the law. *Id.* at *5. Patent Owner asserts further that considering the late request could abrogate the need for conducting the balance of the trial, thereby conserving resources. Petitioner opposes this request, and in the event it is granted, requests permission to file a response.

We are six weeks past the due date for filing the aforementioned request for rehearing. The next due date is January 10, 2017, where Patent Owner will have the opportunity to file a response to the Petition. Paper 12. Furthermore, the panel has briefly considered the merits of Patent Owner's position, and we discern that whether or not the claim limitation "wherein the multi-component task involves arranging services for a trip, including one or more of airline reservations, lodging reservations, or reservation of a rental vehicle" meets the standard set forth in *Unwired Planet* is not one that can be readily resolved without a full trial. Additionally, whether or not a patent is a covered business method patent is an issue addressed regularly in patent owner responses. On these facts, we are unpersuaded that Patent Owner has shown good cause to file a late request for rehearing concerning the Decision on Institution. *See* 37 C.F.R. § 42.5(c) ("A late action will

Case CBM2016-00056
Patent 6,510,451 B2

excused on a showing of good cause or upon a Board decision that consideration of the merits would be in the interests of justice.”).

For these reasons, it is

ORDERED that Patent Owner’s request for authorization to file a late request for rehearing concerning the Decision on Institution is DENIED.

Case CBM2016-00056

Patent 6,510,451 B2

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