

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TICKETNETWORK, INC.,
Petitioner,

v.

CEATS, LLC,
Patent Owner.

Case CBM2018-00004
Patent 8,229,774 B2

Before MICHAEL W. KIM, WILLIAM V. SAINDON, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

ORDER

Petitioner's Request for Permission to File a Reply
37 C.F.R. §§ 42.5, 42.208(c)

On April 13, 2018, a telephone conference was held between respective counsel for the parties and Judges Kim, Saindon, and Cherry. The call was in response to Petitioner's request for authorization to file a reply to Patent Owner's Preliminary Response.

On the call, Petitioner requested authorization under 37 C.F.R. § 42.208(c) to file a reply to address Patent Owner's arguments regarding Petitioner's standing to request a covered business method patent review of U.S. Patent No. 8,229,774 B2. Patent Owner opposed Petitioner's request.

Having heard from both parties, the panel determined that good cause existed for granting the request. The panel determined that supplemental briefing would be in the interest of maintaining a full and complete record on these issues. We also noted that the issue of standing may well be dispositive and is best resolved at the outset of the proceeding. Moreover, the issue of standing is necessarily highly fact dependent and requires assessing the totality of the circumstances. Furthermore, we note that Patent Owner introduced some new arguments which Petitioner could not have been previously aware prior to filing its Petition, including an offer for a covenant not to sue that was made the day of filing of the Preliminary Response. Thus, good cause exists to develop the record as fully as possible. Accordingly, the panel granted Petitioner's request for authorization to file a reply.

We further authorized Petitioner to file two additional exhibits, and an accompanying declaration for the purpose of authenticating these two exhibits only. Patent Owner did not object. Additionally, at Patent Owner's request, the panel authorized Patent Owner to file a sur-reply to Petitioner's reply. However, Patent Owner did not indicate a specific need for further

evidence, so we preliminarily denied Patent Owner's request to file additional exhibits or evidence with its sur-reply without prior authorization. If Patent Owner should wish to file additional exhibits or evidence, Patent Owner should first meet-and-confer with Petitioner, and then request a call with Board.

For the foregoing reasons, it is

ORDERED that Petitioner is authorized to file a Reply to Patent Owner's Preliminary Response, limited to the issue of standing, limited to seven (7) pages, and due by April 20, 2017;

FURTHER ORDERED that Petitioner is authorized to file two exhibits, and a declaration solely for the purposes of authenticating those two exhibits; and

FURTHER ORDERED that Patent Owner is authorized to file a Sur-Reply to Petitioner's Reply, limited to the same issue and to seven (7) pages, which is due by April 27, 2018. Patent Owner is not permitted to file additional exhibits or evidence with the Sur-Reply, at this time.

CBM2018-00004 (Patent 8,229,774 B2)

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