

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIBERTY MUTUAL INSURANCE CO.
Petitioner,

v.

PROGRESSIVE CASUALTY INSURANCE CO.
Patent Owner.

Case CBM2012-00002
Patent 6,064,970

Before JAMESON LEE, JONI Y. CHANG, and
MICHAEL R. ZECHER, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*

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

On February 19, 2014, a telephone conference call was held. The participants were respective counsel for the parties and Judges Lee, Chang, and Zecher. Patent Owner (“Progressive”) initiated the call, and arranged for the services of a court reporter. Counsel for Progressive agreed to file a copy of the transcript of the conference call as an exhibit.

Counsel for Progressive explained that it would like information from the Board on the precise time of day the final written decisions in this proceeding and in related CBM2012-00004 were uploaded into the Board’s electronic Patent Review Processing System (“PRPS”), to confirm or verify Progressive’s view on which final written decision was uploaded first.

The Board explained that the final written decisions in this proceeding and in CBM2012-00004 cross-referenced each other in a respective statement indicating that they were being entered concurrently. *See* CBM2012-00002, Paper 66, 3:5-6; CBM2012-00004, Paper 60, 3:5-6. The Board further explained that from the Board’s perspective, the two final written decisions were entered at the same time, regardless of the actual time of day each paper was uploaded by the Board’s administrative staff into PRPS.

The Board also indicated that it cannot be of help in providing further information in that regard.

It is

ORDERED that if either party contacts any member of the Board’s personnel in connection with ascertaining the specific time of entry of the

Case CBM2012-00002
Patent 6,064,970

final decision in this case, the contact should not be made in an *ex parte* communication.

PETITIONER:

J. Steven Baughman
James R. Myers
Nicole M. Jantzi
Ropes & Gray
Email: steven.baughman@ropesgray.com
Email: james.myers@ropesgray.com
Email: nicole.jantzi@ropesgray.com

PATENT OWNER:

John V. Biernacki
Calvin P. Griffith
James L. Wamsley, III
Jones Day
Email: jvbiernacki@jonesday.com
Email: cpgriffith@jonesday.com
Email: jlwamsleyiii@jonesday.com