

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LIBERTY MUTUAL  
INSURANCE CO.,

Petitioner,

vs. Case Nos. CBM2012-00002

PROGRESSIVE CASUALTY CBM2012-00003

INSURANCE CO., CBM2012-00004

Patent Owner. CBM2013-00009

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Conference Call before

JUDGE JAMESON LEE

JUDGE JONI Y. CHANG

JUDGE MICHAEL R. ZECHER

February 19, 2014

2:32 p.m.

Progressive Exhibit 2026
Liberty Mutual v. Progressive
CBM2012-00002

Taken at:

Jones Day

North Point

901 Lakeside Avenue

Cleveland, Ohio

Buster Beck, RPR

1 APPEARANCES:

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4 (via telephone)

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1 MR. WAMSLEY: This is Jim Wamsley
2 for patent owner Progressive, and we appreciate
3 the Board's accommodating request on such short
4 notice for this call, which hopefully won't
5 last too long.

6 But in connection with request for
7 re-hearing, which Progressive is considering
8 filing, we requested this conference call in
9 order to ask that the Board indicate the
10 specific times at which, and/or the specific
11 sequence in which, its final decisions were
12 posted to the PRPS website in the following CBM
13 cases: CBM 2012-00002, CBM 2012-00004, CBM
14 2012-00003 and 2013-00009.

15 We believe that this information
16 should be public information. We're not trying
17 to pry, certainly, into the internal operations
18 or procedures of the Board. And our
19 understanding is that the decisions were posted
20 at slightly different times, and that, in
21 particular, the final decision in 2012-00002
22 was posted before the decision in 2012-00004 on
23 January 23. And, in addition, the final
24 decision in 2012-00003 was posted before the
25 final decision in 2013-00009 on February 11th.

1 Now, the Board's decisions
2 themselves do not bear a timestamp; however, we
3 received PRPS system notifications by e-mail of
4 these decisions in a sequence that confirms the
5 sequences that I outlined just a minute ago.

6 And, in addition, last week, when
7 the decisions came down in case numbers
8 2012-00003 and 2013-00009, I telephoned the
9 Board's paralegal, Ms. Vignone, I believe, who
10 indicated that the decisions would have been
11 posted at different times because a person can
12 only post one at a time.

13 In addition, we have examined the
14 metadata on the PRPS website, and it's
15 consistent with our analysis and conclusion
16 about the sequence and timing, and confirms
17 that the decisions in 2012-00002 preceded the
18 decision in 2012-00004; and also, the decision
19 in 2012-00003 preceded the one in 2013-00009.

20 So, in a nutshell, we are simply
21 asking that the Board confirm and provide us
22 with the, what we think, should be public
23 information regarding the timing at which these
24 decisions were posted to the website.

25 JUDGE LEE: I understand.

1 Anything else?

2 MR. WAMSLEY: Not at this time, no,
3 Your Honor.

4 JUDGE LEE: Okay. Let me put you
5 on mute for just a second.

6 (Discussion had off the record.)

7 JUDGE LEE: We're back.

8 Let's turn it over to Mr. Baughman
9 from Liberty.

10 We'd like to hear whatever you'd
11 like to say on the subject.

12 MR. BAUGHMAN: Thanks, Your Honor.

13 Respectfully, we don't think
14 there's a basis for the request the patent
15 owner is making here. I know Mr. Wamsley said
16 first he wasn't trying to pry into the internal
17 operations and procedures at the Patent Trial
18 and Appeal Board, but he's now talking about
19 calling paralegals at the Board to ask about
20 timing; I don't believe we were contacted about
21 that call. He's examining metadata. He
22 certainly does appear to be asking for
23 discovery of how the Board does what it does.

24 Respectfully, we submit that the
25 record is quite clear what the Board has done

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