

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 CBM2012-00003
Patent 8,140,358

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

PATENT OWNER PROGRESSIVE'S
NOTICE OF CROSS-APPEAL

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
Madison Building East, 10B20
600 Dulany Street
Alexandria, VA 22314-5793

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Patent Owner Progressive Casualty Insurance Co. (“Progressive”) hereby cross-appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on February 11, 2014 (Paper 78) (the “Final Written Decision”), and from all underlying orders, decisions, rulings and opinions, including without limitation the Decision on Institution of Covered Business Method Review entered on February 12, 2013 (Paper 15) (the “Institution Decision”). Petitioner Liberty Mutual Insurance Co. filed a Notice of Appeal on June 03, 2014 (Paper 86).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner Progressive further indicates that the issues on cross-appeal include, but are not limited to, the following: (1) the Patent Trial and Appeal Board’s (“PTAB”) decision to institute a covered business method review under 37 C.F.R. § 42.208, including whether the PTAB’s decision exceeded its statutory authority under 35 U.S.C. § 326 through rulemaking; (2) the PTAB’s determination that it had jurisdiction or authority under Section 18 of the AIA to review all the claims of U.S. Patent No. 8,140,358 (the “’358 patent”) based on its determination that claim 1 is directed to a covered business method; (3) the PTAB’s determination that the ’358 Patent is a covered

business method patent under 37 C.F.R. § 42.301; (4) the PTAB's determination of unpatentability and cancellation of claims 2-18 of the '358 Patent under 35 U.S.C. § 103; (5) the PTAB's determination that claim 9 is not entitled to the benefit of the filing date of U.S. Application Serial No. 09/571,650 of May 15, 2000; (6) the PTAB's claim constructions; (7) the PTAB's failure to exclude new evidence and arguments submitted by Petitioner for the first time in its Reply brief; (8) the denial of Patent Owner Progressive's motion to exclude evidence; and (9) any finding or determination supporting or related to those issues, as well as all other issues decided adversely to Patent Owner Progressive in any orders, decisions, rulings and opinions.

In addition to this submission, a copy of this Notice of Cross-Appeal is being filed with the Patent Trial and Appeal Board and the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

JONES DAY

June 17, 2014

By /s/ Calvin P. Griffith

Calvin P. Griffith

Reg. No. 34,831

JONES DAY

North Point

901 Lakeside Avenue

Cleveland, Ohio 44114-1190

(216) 586-3939

(216) 579-0212 (Fax)

Attorney for Patent Owner.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that, in addition to being filed electronically through the Board's PRPS System, the original version of the foregoing, PATENT OWNER PROGRESSIVE'S NOTICE OF CROSS-APPEAL, was filed by hand on this 17th day of June, 2014, with the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
Madison Building East, 10B20
600 Dulany Street
Alexandria, VA 22314-5793

I further certify that three (3) true and correct copies of the foregoing, PATENT OWNER PROGRESSIVE'S NOTICE OF CROSS-APPEAL, were filed by hand on this 17th day of June, 2014, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
Washington, DC 20005

I further certify that a true and correct copy of the foregoing, PATENT OWNER PROGRESSIVE'S NOTICE OF CROSS-APPEAL, was served on June 17, 2014 by causing it to be sent by email to counsel for the Petitioner Liberty Mutual Insurance Co. at the following email addresses:

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