Filed on behalf of:

Patent Owner Frontline Technologies, Inc. **Paper No._____**

By: John P. Donohue, Jr., Esq.
John E. McGlynn, Esq.
Woodcock Washburn LLP
2929 Arch Street
Philadelphia, PA 19104
Tel. (215) 568-3100
Fax (215) 568-3439

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

CRS ADVANCED TECHNOLOGIES, INC.

Petitioner

v.

Patent of FRONTLINE TECHNOLOGIES, INC.

Patent Owner

_____

Case CBM2012-00005

Patent 6,675,151

_____

PATENT OWNER FRONTLINE TECHNOLOGIES, INC.'S REQUEST FOR REHEARING TO MODIFY DETERMINATION OF COVERED BUSINESS METHOD

TABLE OF CONTENTS

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

I. Rehearing Requested

Pursuant to 37 C.F.R. §§42.71(c),(d),[1] Patent Owner Frontline Technologies, Inc. ("Frontline") requests a rehearing to modify the Board's decision that U.S. patent number 6,675,151 ("the 151 patent") is a covered business method patent under AIA §18(d). 37 C.F.R. §§42.71(c),(d). Frontline respectfully submits that the Board applied a legally erroneous standard in determining that the 151 patent was subject to review as a covered business method patent and thereby abused its discretion. Reconsideration and entry of a decision not to institute trial is respectfully requested.

[1] Although 37 C.F.R. §42.71(c) states that a decision to institute a proceeding is final and nonappealable, Frontline reserves the right to include in any appeal or request for judicial review, questions regarding elimination of an appeal from a decision to institute a proceeding under the Constitution and Laws of the United States, including the Due Process Clause.

II. Standard of Review

"When rehearing a decision on petition, a panel will review the decision for an abuse of discretion." 37 C.F.R. §42.71(c). "Abuse of discretion will lie when the tribunal's decision rests on an error of law or on erroneous findings of fact, or if the decision manifests an unreasonable exercise of judgment in weighing relevant factors." *Bridgestone/Firestone Research v. Auto. Club*, 245 F.3d 1359, 1361 (Fed. Cir. 2001) (internal citations omitted) (reversing U.S. Patent and Trademark Office Trademark Trial and Appeal Board's decision to cancel appellant's registration). Here, the Board abused its discretion by applying a legally erroneous standard premised upon a misapplication of the AIA legislative history.

III. Matters the Board Misapprehended or Overlooked

Rule 42.71(d) specifies a procedure for requesting rehearing:

> . . . The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply. . . . 37 C.F.R. § 42.71(d).

In its opinion, the Board misapprehended or overlooked the proper standard for determining whether a patent is a covered business method patent under the AIA § 18(d). The Board explained its standard as follows:

> Thus, substitute fulfillment is an activity that is at least "incidental" and/or "complementary to a financial activity" and qualifies as a covered business method patent under § 18 of the AIA. (Decision Institution of Covered Business Method Review, hereinafter "Decision," at 8).

Frontline respectfully submits that the correct standard for determining whether a patent is a "covered business method patent" is recited in the statute as follows:

> For purposes of this section, the term "covered business method patent" means a patent that claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration or management of a financial product or service. AIA § 18(d).

The Board abused its discretion in applying the erroneous standard that "an activity that is at least 'incidental' and/or 'complementary to a financial activity' . . . qualifies as a covered business method patent under § 18 of the AIA." (Decision at 8).

The Board's standard is based upon a phrase appearing in the legislative history that is taken out of context. When viewed in its proper context, the phrase does not have the meaning or significance that is attached to it by the Board.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.