

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CRS ADVANCED TECHNOLOGIES, INC.
Petitioner

v.

FRONTLINE TECHNOLOGIES, INC.
Patent Owner

Case CBM2012-00005
Patent 6,675,151C1

Before SALLY C. MEDLEY, THOMAS L. GIANNETTI, and JENNIFER
S. BISK, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

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

On February 21, 2013, the following individuals participated in a
conference call:

(1) Mr. Robert Yoches, Mr. Aaron Capron, and Mr. Darrel Karl,
counsel for CRS;

(2) Mr. John Donohue, Mr. John McGlynn, and Mr. Scott Tewes, counsel for Frontline; and

(3) Sally Medley and Jennifer Bisk, Administrative Patent Judges.¹

The purpose of the conference call was to discuss any proposed motion to amend that Frontline intends to file. Counsel for Frontline suggested postponing Due Date 1 (the time for filing any proposed motion to amend) until mid-October 2013, since there is a likelihood that by then, a decision in the CLS Bank case² will be made. The request is denied. Based on the circumstances and facts presented, counsel for Frontline did not provide a good cause showing for extending the Scheduling Order Due Date 1 by nearly eight months. 37 C.F.R. § 42.5(c)(2).

Counsel for Frontline represented that if the current schedule is followed, Frontline did not presently intend to file a motion to amend its claims by Due Date 1, currently scheduled for March 18, 2013. If between now and March 18, 2013, Frontline determines that it will file a motion to amend, counsel for Frontline should arrange a conference call with opposing counsel and the Board to discuss the proposed motion to amend.

Counsel for Frontline renewed Frontline's request to file a motion to dismiss as set forth on page 5 of its proposed motions list. Paper 27. Counsel for Frontline explained that the motion would be duplicative of arguments it made in its preliminary response and that the only reason to file the motion would be to preserve the argument made in the preliminary response for appeal. Upon consideration, the motion is not authorized. As

¹ A court reporter was also present.

² See *CLS Bank Int'l v. Alice Corp.*, 685 F.3d 1341 (Fed. Cir 2012), vacated, *reh'g, en banc, granted*, 2012 U.S. App. LEXIS 20906 (Fed. Cir. Oct. 9, 2012). Oral argument was held on February 8, 2013.

counsel for Frontline represented, Frontline's motion to dismiss would be an exact duplicate of some of the arguments made in Frontline's preliminary response. Those arguments were considered. Frontline filed a request for rehearing and the rehearing request was considered. As such, counsel for Frontline did not present a persuasive reason to consider an additional, separate motion (from its already authorized patent owner post-institution response). Based on the facts of this case, consideration of the proposed motion to dismiss would not assist in resolving this proceeding in a just, speedy, and inexpensive manner. 37 C.F.R. § 42.1(b). For all of the reasons stated above,

It is

ORDERED that Frontline's request for an extension of Due Date 1 to mid-October 2013 is DENIED;

FURTHER ORDERED that Frontline's request to file a motion to dismiss as set forth on page 5 of Paper 27 is DENIED; and

FURTHER ORDERED that if Frontline intends to file a motion to amend by DUE DATE 1, scheduled for March 18, 2013, then Frontline shall arrange a conference call with opposing counsel and the Board to discuss the proposed motion to amend.

Case CBM2012-00005

Patent 6,675,151

PETITIONER:

E. Robert Yoches
Finnegan, Henderson, Farabow
Garrett & Dunner, LLP
Bob.yoches@finnegan.com

PATENT OWNER:

John P. Donohue, Jr.
John E. McGlynn
Woodcock Washburn
Donohue@woodcock.com
mcglynn@woodcock.com