1   UNITED STATES PATENT AND TRADEMARK OFFICE

2   BEFORE THE PATENT TRIAL AND APPEAL BOARD

3   ~~~~~~~~~~~~~~~~~~~~

4   LIBERTY MUTUAL

5   INSURANCE CO.,

6   Petitioner,

7   vs.   Case Nos. CBM2012-00002

8   PROGRESSIVE CASUALTY   CBM2012-00003

9   INSURANCE CO.,   CBM2012-00004

10   Patent Owner.   CBM2013-00009

11   ~~~~~~~~~~~~~~~~~~~~

12   Conference Call before

13   JUDGE JAMESON LEE

14   JUDGE JONI Y. CHANG

15   JUDGE MICHAEL R. ZECHER

16

                     February 19, 2014

17   2:32 p.m.

18 Progressive Exhibit 2035
    Liberty Mutual v. Progressive
19 CBM2013-00009   Taken at:

20   Jones Day

21   North Point

22   901 Lakeside Avenue

23   Cleveland, Ohio

24

25   Buster Beck, RPR

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 1   APPEARANCES:

 2

 3        On behalf of the Petitioner:

 4                (via telephone)

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15        On behalf of the Patent Owner:

16                Jones Day, by

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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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