

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIBERTY MUTUAL INSURANCE CO.
Petitioner-Appellee

v.

PROGRESSIVE CASUALTY INSURANCE CO.
Patent Owner-Appellant

Case CBM2013-00009
Patent 8,140,358

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

PATENT OWNER PROGRESSIVE'S
NOTICE OF 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 appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on February 11, 2014 (Paper 68) (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 March 28, 2013 (Paper 10) (the “Institution Decision”) and the Decision on Progressive’s Request for Rehearing entered on April 1, 2014 (Paper 78) (the “Rehearing Decision”).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner Progressive further indicates that the issues on 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 1-20 of the '358 Patent under 35 U.S.C. § 103; (5) the PTAB's claim constructions; (6) the PTAB's failure to exclude new evidence and arguments submitted by Petitioner for the first time in its Reply brief; (7) the denial of Patent Owner Progressive's motion to exclude evidence; (8) the PTAB's denial of Patent Owner Progressive's Request for Rehearing, including its determination that it was not barred and estopped from maintaining the proceeding or entering a final written decision with respect to patentability under 35 U.S.C. § 325(e)(1), as well as its determination that the Final Written Decision was not an advisory opinion; 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 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.

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 APPEAL, was filed by hand on this 2nd 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 APPEAL, were filed by hand on this 2nd 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 APPEAL, was served on June 2, 2014 by causing it to be sent by email to counsel for Petitioner Liberty Mutual Insurance Co. at the following email addresses:

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