

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 CBM2013-00009

Patent 8,140,358

Before the Honorable JAMESON LEE, JONI Y. CHANG, and MICHAEL R. ZECHER, *Administrative Patent Judges*.

**PETITIONER LIBERTY MUTUAL INSURANCE CO.'S SECOND SET OF
OBJECTIONS TO PATENT OWNER PROGRESSIVE CASUALTY
INSURANCE CO.'S EXHIBITS**

Pursuant to 37 C.F.R. § 42.64(b)(1), the undersigned, on behalf of and acting in a representative capacity for Petitioner, Liberty Mutual Insurance Company (“Petitioner”), hereby submits the following objections to Patent Owner Progressive Casualty Insurance Co.’s (“Patent Owner”) new Exhibit 2026, and any reference to/reliance on the foregoing in Patent Owner’s Response Pursuant To 37 C.F.R. § 42.220 (“Response” or “Resp.”). As required by 37 C.F.R § 42.62, Petitioner’s objections below apply the Federal Rules of Evidence (“F.R.E.”).

I. All Previous Objections to Exhibits Maintained

Petitioner maintains all previous objections stated in Liberty Mutual Insurance Co.'s First Set of Objections to Patent Owner Progressive Casualty Insurance Co.'s Exhibits, as Patent Owner's Supplemental Declaration of Michael J. Miller (Exhibit 2026) does not cure those objections.

II. Objections to Citations to and/or Reliance on Exhibits in Another CBM Proceeding

Petitioner objects to Progressive's purported reference to (in Exhibit 2026) and any reliance on Exhibit 2012 from CBM2012-00002 as an exhibit not of record in this CBM2013-00009 proceeding and not properly numbered or submitted in this CBM proceeding, pursuant to 37 C.F.R. §§ 42.6(c), 42.51(b)(1), 42.63, and 42.64(b)(2). *See also* 37 C.F.R. § 42.223.

Furthermore, Petitioner maintains, and specifically incorporates by reference, all previous objections to Exhibit 2012 from CBM2012-00002, which Progressive now purports (in Exhibit 2026) to be the same "Risk Classification Statement of Principles" referenced in paragraph 17 of Exhibit 2013 in this CBM2013-00009 proceeding, as previously set forth in Liberty Mutual Insurance Co.'s First Set of Objections to Patent Owner Progressive Casualty Insurance Co.'s Exhibits for

CBM2012-00002, and Liberty Mutual Insurance Co.'s Second Set of Objections to Patent Owner Progressive Casualty Insurance Co.'s Exhibits for CBM2012-00002.¹

Respectfully submitted,

ROPES & GRAY LLP

July 3, 2013

By /J. Steven Baughman/
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¹ Additionally, to the extent Progressive purports to rely in this CBM proceeding on Exhibit 2020 from CBM2012-00002, which purports to authenticate Exhibit 2012 therein, in an attempt to authentic the referenced "Risk Classification Statement of Principles" for this CBM2013-00009 proceeding, Petitioner objects to Progressive's improper reference to and any purported reliance on a document not properly numbered or submitted in this CBM proceeding and also specifically incorporates by reference all previous objections to Exhibit 2020 from CBM2012-00002 as they relate to Exhibit 2012 therein, which were previously set forth in Liberty Mutual Insurance Co.'s Second Set of Objections to Patent Owner Progressive Casualty Insurance Co.'s Exhibits for CBM2012-00002.

CERTIFICATE OF SERVICE

It is certified that a copy of PETITIONER LIBERTY MUTUAL INSURANCE CO.'S SECOND SET OF OBJECTIONS TO PATENT OWNER PROGRESSIVE CASUALTY INSURANCE CO.'S EXHIBITS has been served in its entirety on the Patent Owner as provided in 37 CFR § 42.6.

The copy has been served on July 3, 2013 by causing the aforementioned document to be electronically mailed to:

Calvin P. Griffith, at: cpgriffith@jonesday.com

James L. Wamsley, III at: jlwamsleyiii@jonesday.com

John V. Biernacki at: jvbiernacki@jonesday.com

pursuant to the Petitioner and Patent Owner's agreement.

/Jordan M. Rossen/
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