

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

LEE, *Administrative Patent Judge.*

ORDER
Trial Hearing
37 C.F.R. § 42.70

This *covered business method patent* review was instituted on March 28, 2013. Paper 10. Oral argument date initially was set for October 28, 2013 (Paper 11), but subsequently reset to October 15, 2013. Paper 31.

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In a related proceeding on the same involved patent and between the same parties, CBM2012-00003, oral argument also has been set for October 15, 2013. Paper 45.

Both parties have requested oral argument. Papers 41, 46. The requests are *granted*.

The oral arguments for CBM2012-00003 and for CBM2013-00009 will be merged and conducted at the same time, i.e., not in *seriatim*. Each party will have one hour of total oral argument time for both proceedings.

Petitioner (“Liberty Mutual”) bears the ultimate burden of proof that Patent Owner (“Progressive”)’s claims at issue in CBM2012-00003 and CBM2013-00009 are unpatentable. Therefore, at oral hearing Liberty Mutual will proceed first to present its case with regard to the challenged claims and grounds for which the Board instituted trial in CBM2012-00003 and in CBM2013-00009.

Thereafter, Progressive will respond to Liberty Mutual’s case in both CBM2012-00003 and CBM2013-00009. After that, Liberty Mutual will make use of the remainder of its time addressing Progressive’s responsive presentation.

The hearing will commence at 1:00 PM on October 15, 2013, and it will be open to the public for in-person attendance on the ninth floor of Madison Building east, 600 Dulaney Street, Alexandria, Virginia. In-person attendance will be accommodated on a first come/first serve basis.

The Board will provide a court reporter for the hearing, and the reporter’s transcript will constitute the official record of the hearing.

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Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served five business days before the hearing. They shall be filed with the Board three business days prior to the hearing, and the parties must initiate a conference call with the Board at least two business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits.

The Board expects lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party will not be in attendance at oral argument, the Board should be notified via a joint telephone conference call no later than two business days prior to the oral hearing to discuss the matter.

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For PETITIONER

J. Steven Baughman
Nicole M. Jantzi
Ropes & Gray
Email: steven.baughman@ropesgray.com
Email: Nicole.jantzi@ropesgray.com

For PATENT OWNER

Calvin P. Griffith
James L. Wamsley, III
John V. Biernacki
Jones Day
Email: cpgriffith@jonesday.com
Email: jlwamsleyiii@jonesday.com
Email: jvbiernacki@jonesday.com