

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SALESFORCE.COM, INC.,
Petitioner,

v.

APPLICATIONS IN INTERNET TIME LLC,
Patent Owner.

Case CBM2014-00168
Patent 7,356,482 B2

Before LYNNE E. PETTIGREW, MITCHELL G. WEATHERLY, and
JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

Petitioner, Salesforce.com, Inc., filed a Request for Rehearing of our Decision (Paper 10, "Dec.") denying institution of covered business method patent review of claims 1–59 of U.S. Patent No. 7,356,482 B2 (Ex. 1001,

“the ’482 patent”). Paper 11 (“Req. Reh’g”). In our Decision, we determined that the information presented in the Petition did not establish that the ’482 patent qualifies as a covered business method patent under section 18 of the Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284, 329 (2011) (“AIA”). Dec. 10.

For the reasons that follow, Petitioner’s Request for Rehearing is *denied*.

II. ANALYSIS

The party challenging a decision in a request for rehearing bears the burden of showing the decision should be modified. 37 C.F.R. § 42.71(d). A request for rehearing “must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed.” *Id.*

Petitioner contends that our Decision misapprehended the definition of “covered business method patent” set forth in section 18(d)(1) of the AIA by interpreting the provision to “require a petitioner to demonstrate that a patent ‘expressly claims’ a ‘particular relation to the financial services sector.’” Req. Reh’g 3. Petitioner also contends that our Decision overlooked analysis in the Petition demonstrating that the claims encompass “performing data processing or other operations used in the practice, administration, or management of a financial product or service,” as set forth in section 18(d)(1). *Id.* at 12–15. We address these arguments in turn.

First, we disagree with Petitioner’s contention that we interpreted section 18(d)(1) to require a showing that a patent “expressly claims” a “particular relation to the financial services sector.” *See* Req. Reh’g 3–5. Rather, as an initial step in our analysis of whether the ’482 patent qualifies

as a covered business method patent, we considered the language of the claims. We observed that none of the challenged claims expressly recites a method or apparatus “for performing data processing or other operations used in the practice, administration, or management of a financial product or service.” Dec. 7. We further noted that “the claims on their face are directed to technology common in business environments across sectors with no particular relat[ionship] to the financial services sector.” *Id.* (internal quotation marks and citation omitted).

Our analysis, however, did not end there. Contrary to Petitioner’s assertion that we considered only the claim language in our analysis, we also considered Petitioner’s arguments regarding the specification of the ’482 patent. *Id.* at 8–9 (citing Pet. 12 (Paper 2)). Specifically, we determined that Petitioner failed to explain how the two portions of the disclosure on which it relied “relate[] to the practice, administration, or management of *a financial product or service*, as required by section 18(d)(1) of the AIA,” or how they relate to the systems and methods recited in the claims. *Id.* Accordingly, we concluded that Petitioner, relying on two isolated passages from the written description, had not shown that the ’482 patent “*claims* an activity that is ‘financial in nature, incidental to a financial activity or complementary to a financial activity.’” *Id.* at 9. Thus, we did not interpret section 18(d)(1) to require express claiming of financial products or services, as Petitioner contends. *See* Req. Reh’g 3–12. Instead, our interpretation was consistent with that applied by the Board in other cases cited by Petitioner in the Request for Rehearing. *See id.* at 8–12.

Turning to Petitioner’s second contention, we are not persuaded that our Decision overlooked any analysis in the Petition as to whether the claims

encompass “performing data processing or other operations used in the practice, administration, or management of a financial product or service.” *See* Req. Reh’g 12–15. Petitioner’s entire argument regarding whether the ’482 patent satisfies the “financial product or service” requirement of section 18(d)(1) consumed only two pages of text in the Petition. *See* Pet. 11–13. As discussed in the Decision, Petitioner’s argument was limited to citing two passages from the written description and asserting that the ’482 patent was classified in Class 705. *See* Dec. 8–10 (citing Pet. 11–13).

Petitioner argues that we overlooked analysis in the Petition demonstrating that the claims of the ’482 patent, including claim 1, are directed to a change management layer for monitoring and detecting changes pertinent to the operation of a business, that such changes include regulatory changes, and that the specification discloses embodiments directed to managing changes in financial and securities regulations and managing other changes affecting a business’s finance department. Req. Reh’g 13–15 (citing Pet. 4, 8–14, 18). As is evident from Petitioner’s citations to pages in different portions of the Petition, however, the Petition did not present a coherent argument explaining how the two appearances of the word “finance” in the written description demonstrate that the claims are directed to an apparatus “for performing data processing or other operations used in the practice, administration, or management of a financial product or service” or an activity that is “financial in nature, incidental to a financial activity or complementary to a financial activity.” *See* Dec. 9. With its belated attempt to piece together an argument from various sections of the Petition directed to other issues, Petitioner has not demonstrated that we

overlooked any analysis in the Petition addressing the “financial product or service” requirement of section 18(d)(1).

III. REQUEST FOR EXPANDED PANEL

Based on its contention that our interpretation of section 18(d)(1) of the AIA conflicts with previous Board decisions, Petitioner “suggests that an expanded panel rehear and address the foundational interpretation issues raised” in its Request for Rehearing. Req. Reh’g 2. Whether to expand the panel in a covered business method patent review matter “involves consideration of whether the issue is one of conflict with an authoritative decision of our reviewing courts or a precedential decision of the Board, or whether the issue raises a conflict regarding a contrary legal interpretation of a statute or regulation.” *See AOL Inc. v. Coho Licensing LLC*, Case IPR2014-00771, slip op. at 3 (PTAB Mar. 24, 2015) (Paper 12) (informative) (setting forth the standard for considering a suggestion of panel expansion in an *inter partes* review matter). As explained above, Petitioner’s assertion that a conflict exists regarding the interpretation of section 18(d)(1) is based on a misunderstanding of how we interpreted and applied section 18(d)(1) in our Decision. Thus, Petitioner’s suggestion for panel expansion based on an alleged conflict is unpersuasive.

Moreover, a panel does not have authority to expand a panel; only the Chief Judge, acting on behalf of the Director, may act to expand a panel. *See Apple Inc. v. Rensselaer Polytechnic Inst.*, Case IPR2014-00319, slip op. at 2 n.1 (PTAB Dec. 12, 2014) (Paper 20). In this case, the suggestion to expand the panel has been considered, but not adopted.

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