

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Apple Inc.,
Petitioner

v.

OpenTV, Inc.,
Patent Owner.

Case No. CBM2016-00066
Patent No. 7,055,169

Before JAMESON LEE, SALLY C. MEDLEY, and
MICHAEL R. ZECHER, *Administrative Patent Judges*.

PETITIONER'S REQUEST FOR REFUND OF FEES

Apple Inc. (“Petitioner”) hereby requests a refund of the \$18,000 post-institution fee that it previously paid. Petitioner filed a petition for covered business method review of U.S. Patent No. 7,055,169 on May 2, 2016, and paid the USPTO \$30,000 on that date, including a \$12,000 payment for the covered business method review request fee and a \$18,000 payment for the post-institution fee, as required by 37 CFR § 42.15(b)(2). On August 25, 2016, the Board terminated this proceeding, as requested in the parties’ Joint Motion to Terminate Proceeding filed August 4, 2016 (Paper 7), noting that no decision on whether to institute a trial was made. *See* Paper 15.

Based on the termination of this proceeding before institution, Petitioner requests a refund in the amount of the post-institution fees that it paid for post-institution services. *See* 78 FR 4212, 4234-35 (January 18, 2013), available at http://www.uspto.gov/sites/default/files/aia_implementation/AC54_Final_Rule_Setting78FR4212-2013JAN18.pdf (“The entire fee would be returned to the petitioner if the Office does not institute a review.”); FAQ E7, available at <http://www.uspto.gov/patents-application-process/appealing-patent-decisions/trials/patent-review-processing-system-prps-0> (“[T]he petitioner may file in PRPS a request for a refund of any post-institution fee paid.”).

Accordingly, Petitioner hereby requests a refund of the \$18,000 post-institution fee that it previously paid. The refund may be deposited in Deposit Account No. 50-0639.

Dated: October 26, 2016

Respectfully Submitted,

/s/ Mark E. Miller

Mark E. Miller

USPTO Reg. No. 31401

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CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2016, I caused a true and correct copy of the foregoing Petitioner's Request for Refund of Fees to be served on the following counsel of record via Express mail and email directed to attorneys of record for Patent Owner as follows:

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