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Patent Quality Initiative Challenges the Validity of Five Patents by Filing Nine IPRs

PQI also files a friend-of-the-court brief concerning two patents owned by Intellectual Ventures that have been asserted against Capital One and other banks

FOR IMMEDIATE RELEASE

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Download PDF of Press Release (/~/media/pqi/files/amicus ipr 102714 1015am.pdf?la=en)

New York, NY, October 27, 2014 – The Patent Quality Initiative (PQI), an intellectual property education, information and advocacy effort that seeks to improve innovation in financial services and other industries, announced today that it has filed nine *Inter Partes* Review (IPR) petitions directed against five patents held by two non-practicing entities (NPEs). Additionally, PQI filed a friend-of-the-court brief to explain why the United States Court of Appeals for the Federal Circuit should confirm as invalid two patents held by Intellectual Ventures (IV).

"When PQI was launched earlier this month we committed to take action to improve patent quality. The IPRs and amicus brief we have filed demonstrate this commitment," said Sean Reilly, General Counsel of Askeladden L.L.C., and Senior Vice President and Associate General Counsel for The Clearing House Payments Company L.L.C., which is supporting PQI. "This is just an early step and we are going to continue to advocate for better quality patents."

IPR Petitions

PQI, through Askeladden, L.L.C., filed three IPR petitions on October 23rd requesting the United States Patent and Trademark Office (USPTO) take a second look at the validity of two patents owned by iSourceLoans LLC. iSourceLoans LLC is a non-practicing entity based in Los Angeles that has filed two lawsuits asserting its patents against members of the financial services industry within the last year.

In its lawsuits, iSourceLoans alleged infringement of patents describing computer software that enables mortgage brokers, real estate agents, and others to originate a mortgage transaction consistent with the requirements of the 1974 Real Estate Settlement Procedures Act (RESPA). PQI's IPRs ask the USPTO to take another look at the iSource patents because, in 1998, when the applications for them were first filed, there was nothing new about using a computer to originate, process, and service mortgage loan applications. To the contrary, computerized loan origination (CLO) systems had existed since at least the early 1980s, and by 1990 there were numerous CLO systems, which were collectively responsible for originating loans worth billions of dollars. Likewise, there was nothing innovative or novel about

complying with established law -- especially when failing to do so could result in fines or imprisonment. The claimed inventions of the iSourceLoans patents were therefore obvious and they should not have been granted in the first place.

Separately, PQI filed a total of six IPR petitions requesting the USPTO take a second look at three patents owned by Loyalty Conversion Systems Corporation. Loyalty Conversion Systems is a non-practicing entity based in Melville, New York, which in 2013 filed patent infringement lawsuits against ten U.S. airlines, based on their frequent flyer programs. In its lawsuits, Loyalty Conversion Systems alleged infringement of patents describing conversion of points and other rewards from partner programs (e.g., credit card loyalty programs) into frequent flier miles. PQI's IPRs ask the USPTO to take another look at three Loyalty Conversion Systems patents that are not the same as those in the airline lawsuits, but which cover similar subject matter. PQI's IPR petitions explain that each of the three patents is invalid, because its subject matter was already known and obvious before the time when the applications were filed with the USPTO to obtain the patents. Indeed, partnerships enabling customers of one business entity's loyalty program to redeem the points for credit with another partner business entity were well known before that time.

Friend-of-the-Court Filing

PQI filed its *amicus curiae*, or friend-of-the-court brief, through Askeladden L.L.C. in the United States Court of Appeals in the *Intellectual Ventures (IV) v. Capital One* case. The brief supports the lower court's decision holding that two patents owned by IV are invalid because they address routine online and computer-based financial services, and as a result impermissibly patented abstract concepts implemented by computers.

The first patent claims the idea of tailoring communications based on information specific to a user viewing a website. The purported invention selects a set of data that most closely aligns with a user's profile and web-browsing history, and displays that data on a webpage for the user to see. The second patent claims the basic practice of budgeting—i.e., helping credit card users with financial planning. The user's credit card information is conveyed

from a point-of-sale device to a processor that categorizes the purchases being made and stores those purchase amounts in a database. If the amounts in a category exceed a pre-set spending limit, the user may be required to give specific approval for a particular purchase.

PQI argues that using a computer or the Internet to perform simple, fundamental processes long in use are not patent-eligible under Section 101 of U.S. Patent Law given the ubiquity of computers and the Internet. The brief also argues that courts should consider a plaintiff's litigation behavior and infringement theories when deciding whether their patents are invalid. Finally, PQI points out the importance of having courts address the issue of whether a patent is invalid because it covers an abstract concept as early as possible.

More than half of the cost of defending patent litigation is typically incurred during discovery, and failure to resolve this basic question at the outset of litigation places pressure on defendants to settle simply to avoid such discovery costs, leaving invalid patents intact.

The IPR petitions and *amicus* brief can be found on www.patentqualityinitiative.com (<http://www.patentqualityinitiative.com>)

About Patent Quality Initiative

The Patent Quality Initiative, under Askeladden L.L.C., is the product of thought-leadership provided by The Clearing House (<https://www.theclearinghouse.org/>). Established in 1853, The Clearing House is the oldest banking association and payments company in the United States and is owned by the world's largest commercial banks, which hold half of all U.S. deposits. The Patent Quality Initiative ("PQI") is an education, information and advocacy organization with the goal of improving the understanding, use and reliability of patents in financial services and other industries. PQI strives to promote better patents and patent holder behaviors by regularly filing *amicus* briefs, *Inter Partes* Reviews (IPRs) and engaging in educational activities. One of PQI's goals is to discourage the assertion of patents that were granted but are invalid. Please visit www.patentqualityinitiative.com (<http://www.patentqualityinitiative.com>)

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