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**From:** Vignone, Maria on behalf of Trials  
**Sent:** Thursday, December 04, 2014 3:29 PM  
**To:** Brian Buchheit; Trials  
**Cc:** askeladdenIPR@fchs.com; elizabeth.nelson@patentsondemand.com; scott.garrett@patentsondemand.com; Sean McGhie  
**Subject:** RE: IPR2015-00122 IPR2015-00123 IPR2015-00124 IPR2015-00125 IPR2015-00133 IPR2015-00137

Counsel:

The panel has determined that a conference call is premature at this time.

The parties are reminded of the proper procedure for requesting a conference call with the board. The email contains substantive arguments and Patent Owner does not indicate that it conferred with Petitioner prior to requesting the call. See technical issue 3 on our website (especially the highlighted portions)

(<http://www.uspto.gov/ip/boards/bpai/prps.jsp>):

3. To request a conference call for a particular case (e.g., to request authorization to file a motion), contact the Board at [Trials@uspto.gov](mailto:Trials@uspto.gov). The email should copy the other party or parties to the proceeding, indicate generally the relief being requested or the subject matter of the conference call, state whether the opposing party or parties oppose the request, and include times when all parties are available. Unless otherwise authorized, do not use the [Trials@uspto.gov](mailto:Trials@uspto.gov) email address for substantive communications to the Board. Parties may also contact the Board by telephone at (571) 272-7822.

Thank you,

Maria Vignone  
Paralegal Operations Manager  
Patent Trial and Appeal Board  
571-272-4645

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**From:** Brian Buchheit [mailto:brian.buchheit@patentsondemand.com]  
**Sent:** Thursday, December 04, 2014 11:35 AM  
**To:** Trials  
**Cc:** askeladdenIPR@fchs.com; elizabeth.nelson@patentsondemand.com; scott.garrett@patentsondemand.com; Sean McGhie  
**Subject:** IPR2015-00122 IPR2015-00123 IPR2015-00124 IPR2015-00125 IPR2015-00133 IPR2015-00137

Good Afternoon,

**We request a conference with a judge and the Petitioner as soon as feasible, regarding the matters indicated herein. The Patent owners will make themselves available whenever the judge and Petitioner are able to conference.**

The IPRS (IPR2015-00122 IPR2015-00123 IPR2015-00124 IPR2015-00125 IPR2015-00133 IPR2015-00137) were filed by Askeladden, LLC. And served to Patents On Demand, PA naming Loyalty Conversion Systems Corporation (LCSC) as the Patent owner. Loyalty Conversion Systems Corporation is a client of Patents On Demand, PA, who did not authorize a response to the IPRs, as they are not the owners and had no substantial interest in the patents (via exclusive

license or otherwise) at the time the petitions were filed. The patents have never been assigned to LCSC (or any other entity). The owners are the named inventors, who have not been properly served.

The improper service created a highly prejudicial situation, in that one of the two patent owners, Brian K Buchheit, is an attorney employed by Patents on Demand. Because of attorney/client conflict and ethical rules of the Florida bar, the law firm informed myself of the improper service, but didn't authorize filing of the mandatory notices (served to Loyalty Conversion Systems Corporation) due to the named client not authorizing the response. The improper service has created a work conflict and possible Florida Bar ethics conflict, which has negatively impacted one of the two patent owners.

The only party authorized per the USPTO website to upload mandatory notices, was Patents On Demand on behalf of LCSC. The lawfirm was unable to complete the mandatory notices, as completion was explicitly not authorized by the named client, LCSC. Patent owner, Brian Buchheit, was informed of this situation but was not authorized to respond to the mandatory notices by the firm at which he works. We brought this situation immediately to the assigned paralegal, Cathy Underwood, who asked us to provide proof that LCSC is not the proper owner and to include statements of the problem. Ms. Underwood stated that we had to first upload the mandatory notices to submit these documents though we indicated the above problem causing the served party to not be able to upload the mandatory notices – and no proper party could respond to the mandatory notices. Part of the documents served to the Petitioner and uploaded to the USPTO (removed on December 3, 2014) was a special appearance by a principle of Patents on Demand, Scott Garrett, stating the problem officially from the law firm's perspective.

Left with no other option (we were told we could not submit an email to the trials until we filed the mandatory notices, which we couldn't file) the patent owners completed the mandatory notices in their own name, then had a USPTO administrator alter the records to a pro-se response. The electronic system did not allow this filing as pro-se, as the served party was identified as the law firm, which is why we had to have a USPTO administrator "cheat" the system, as we did not have a proper avenue to respond.

**We request a withdrawal of the uploaded mandatory notices** which were filed under protest as a special appearance, since no proper service of the patent owners occurred. The patent owners have been prejudiced by this improper service and have been unable to progress on the petitions due to conflicts.

**We request a conference on a motion to dismiss for improper service and for failure to name the real party of interest.**

**We request permission to re-upload the documents** (requested originally of Patents On Demand by the USPTO PTAB paralegal) and place them on the record for the Panel's consideration.

**Further, we request a hearing for sanctions and permission for filing motions for sanctions** for the costs incurred thus far that is a direct result of the improper service. Specifically, after informing the petitions (Askeladden, LLC.) of the error of service, their representatives have maintained despite the facts submitted to them and despite a complete lack of proof/evidence that LCSC was the owner. Thus, the costs of completing the mandatory notices and additional administrative costs to provide the requested proof is due solely to the improper diligence and identification of named parties by Askeladden, LLC.

Moreover, Askeladden, LLC. Issued press releases in regard to filing of the IPRs that improperly named LCSC as the owner. These press releases have materially harmed the patent owners, who were in discussions relating to sale/funding of the patents, which in light of the misrepresentations of Askeladden, LLC have harmed the patent owners. The patent owners request a hearing on sanctions on this issue as well, as Askeladden, LLC is believed to have improperly used the PTAB proceedings to further their financial model to solicit new business while harming the actual patent owners by misrepresenting the ownership publicly.

Very Truly Yours,

- Brian K Buchheit and Sean McGhie, Patent Owners  
14955 SW 33<sup>rd</sup> Street, Davie Florida 33331  
305-761-1972

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**From:** Vignone, Maria on behalf of Trials  
**Sent:** Thursday, February 26, 2015 12:33 PM  
**To:** Brian Buchheit; Yam, Stephen  
**Cc:** Trials; #AskeladdenIPR; Oliver, Justin; DeLucia, Frank; sean@mcghie.com  
**Subject:** RE: IPR2015-00122, -00123, -00124, -00125, -00133, -00137

Counsel:

The panel has determined that a conference call is premature at this time.

The parties are reminded of the proper procedure for requesting a conference call with the board. Patent Owner does not indicate that it conferred with Petitioner prior to requesting the call. See technical issue 3 on our website (especially the highlighted portions) (<http://www.uspto.gov/ip/boards/bpai/prps.jsp>):

3. To request a conference call for a particular case (e.g., to request authorization to file a motion), contact the Board at [Trials@uspto.gov](mailto:Trials@uspto.gov). The email should copy the other party or parties to the proceeding, indicate generally the relief being requested or the subject matter of the conference call, state whether the opposing party or parties oppose the request, and include times when all parties are available. Unless otherwise authorized, do not use the [Trials@uspto.gov](mailto:Trials@uspto.gov) email address for substantive communications to the Board. Parties may also contact the Board by telephone at (571) 272-7822.

Thank you,

Maria Vignone  
Paralegal Operations Manager  
Patent Trial and Appeal Board  
571-272-4645

**From:** Brian Buchheit [<mailto:bbuchheit@gmail.com>]  
**Sent:** Thursday, February 26, 2015 10:38 AM  
**To:** Yam, Stephen  
**Cc:** Trials; #AskeladdenIPR; Oliver, Justin; DeLucia, Frank; [sean@mcghie.com](mailto:sean@mcghie.com)  
**Subject:** Re: IPR2015-00122, -00123, -00124, -00125, -00133, -00137

Board and Petitioner,

In response to the Petitioner's submission per Judicial Order of Feb 17, 2015, the **Patent Owners would like to schedule a meeting with the Panel and the Petitioner** to resolve some concerns and to seek permission to provide submissions, as appropriate.

First, Patent Owners and Petitioner have an unresolved issue related to the Protective Order for which Patent Owners seek the Board's resolution. Second, Patent Owner's believe content of the Petitioner's submission exceed the scope of the judicial order, in regard to newly advanced legal argument based on previously known facts, and request a determination. If new legal arguments are within scope of the Judicial Order, Patent Owners seek leave to respond to these newly advanced legal arguments. Third, Patent Owners

wish to raise concerns with regard to the Duty of Candor and Disclosure Obligations imposed by 37 CFR 42.11 in relationship to the RPI issue.

Thank you for your time and consideration.

Very Truly Yours,

- Brian K Buchheit, for the Patent Owners