

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

ORACLE CORPORATION  
Petitioner,

v.

CROSSROADS SYSTEMS, INC.,  
Patent Owner.

---

Case IPR2015-00852  
Patent No. 7,051,147

---

**PATENT OWNER'S PRELIMINARY RESPONSE**

## TABLE OF CONTENTS

I.	SUMMARY OF ARGUMENT .....	1
II.	THE BOARD SHOULD DENY THE PETITION BECAUSE THE PETITION IS A “SECOND” BITE AT THE APPLE.....	2
A.	Petitioner Previously Challenged Claims 1-13 in IPR2014- 01209, but the Board Denied Institution .....	3
B.	Petitioner Previously Challenged Claims 14-39 in IPR2014- 01207, and Trial on those Challenges is Currently Proceeding .....	4
C.	The Petition is Petitioner’s Third Attempt to Challenge the ’147 Patent on the Same Grounds .....	5
D.	Petitioner Relied on Prior Board Decisions in an Attempt to Correct the Deficiencies in Its 1209 IPR.....	6
E.	The Board Should Exercise its Discretion to Deny the Petition Under 35 U.S.C. § 325(d) .....	7
F.	The Board Routinely Denies Similar Petitions as a “Second Bite at the Apple” .....	16
1.	<i>Medtronic, Inc. v. NuVasive, Inc.</i> , IPR2014-00487, Paper 8 (PTAB Sept. 11, 2014) (designated as “Informative”).....	17
2.	<i>Butamax Advanced Biofuels LLC v. Gevo, Inc.</i> , IPR2014- 00581, Paper 8 (PTAB Oct. 14, 2014).....	18
3.	<i>Samsung Electronics Co., Ltd., v. Rembrandt Wireless Techs., LP</i> , IPR2015-00118, Paper 14 (PTAB Jan. 28, 2015) .....	21
4.	<i>Zimmer Holdings, Inc. v. Bonutti Skeletal Innovations LLC</i> , IPR2014-01080, Paper 17 (PTAB Oct. 31, 2014).....	22
5.	<i>Samsung Electronics Co. v. Affinity Labs of Texas, LLC</i> , IPR2015-00820, Paper 12 (PTAB May 15, 2015) .....	24
III.	CONCLUSION.....	26

## TABLE OF AUTHORITIES

### **Administrative Cases**

<i>Butamax Advanced Biofuels LLC v. Gevo, Inc.</i> , IPR2014-00581, Paper 8 (PTAB Oct. 14, 2014) .....	18, 19, 20
<i>Cisco Systems, Inc. v. C-Cation Techs., LLC</i> , IPR2014-00454, Paper 12 (PTAB Aug. 29, 2014) .....	13
<i>CustomPlay, LLC v. ClearPlay, Inc.</i> , IPR2014-00783, Paper 9 (PTAB Nov. 7, 2014) .....	12
<i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.</i> , IPR2013-00324, Paper 19 (PTAB Nov. 21, 2013) .....	8
<i>Medtronic, Inc. v. NuVasive, Inc.</i> , IPR2014-00487, Paper 8 (PTAB Sept. 11, 2014) .....	17
<i>Samsung Electronics Co. v. Affinity Labs of Texas, LLC</i> , IPR2015-00820, Paper 12 (PTAB May 15, 2015) .....	24, 25
<i>Samsung Electronics, Co., Ltd. v. Rembrandt Wireless Techs., LP</i> , IPR2015-00118, Paper 14 (PTAB Jan. 28, 2015) .....	<i>passim</i>
<i>Unilever, Inc. v. Procter &amp; Gamble Co.</i> , IPR2014-00506, Paper 17 (PTAB Jul. 7, 2014) .....	12
<i>Zimmer Holdings, Inc. v. Bonutti Skeletal Innovations LLC</i> , IPR2014-01080, Paper 17 (PTAB Oct. 31, 2014) .....	<i>passim</i>
<i>ZTE Corp. v. ContentGuard Holdings, Inc.</i> , IPR2013-00454, Paper 12 (PTAB Sept. 25, 2013) .....	12, 15

### **Statutes**

35 U.S.C. § 314 .....	8, 13
35 U.S.C. § 315 .....	21

35 U.S.C. § 325 .....*passim*

### **Regulations**

37 C.F.R. § 42.1 ..... 2, 9, 23

37 C.F.R. § 42.6 ..... 13

37 C.F.R. § 42.71(d) ..... 1, 4

37 C.F.R. § 42.104 ..... 4, 13

37 C.F.R. § 42.108 ..... 8

### **Other Authorities**

Rules of Practice for Trials Before The Patent Trial and Appeal Board and Judicial  
Review of Patent Trial and Appeal Board Decisions; Final Rule  
77 Fed. Reg. 48,612 (Aug. 14, 2012)..... 13

H.R. Rep. No. 112-98, pt.1 (2011)..... 14, 20

**Patent Owner's Exhibit List**  
**IPR2015-00852**

Exhibit No.	Description
2000-2017	[Reserved]
2018	Exhibit 1005 to <i>Oracle Corp. v. Crossroads Systems, Inc.</i> , IPR2014-01197, -01207 -01209, Paper 1 (PTAB July 23, 2014)
2019	Exhibit 1004 to <i>Oracle Corp. v. Crossroads Systems, Inc.</i> , IPR2014-01197, -01207 -01209, Paper 1 (PTAB July 23, 2014)
2020-2100	[Reserved]
2101	Institution Decision, IPR2014-01197, Paper 13 (PTAB Jan. 29, 2015).
2102-2103	[Reserved]
2104	Institution Decision, IPR2014-01226, Paper 9 (PTAB Jan. 30, 2015)
2105-2120	[Reserved]
2121	Institution Decision, IPR2014-01209, Paper 12 (PTAB Jan. 30, 2015)
2122	Petition for <i>Inter Partes</i> Review, IPR2014-01209, Paper 1 (PTAB Jul. 23, 2014)
2123	[Reserved]
2124	Institution Decision, IPR2014-01544, Paper 9 (PTAB April 3, 2015)
2125-2126	[Reserved]
2127	Petition for <i>Inter Partes</i> Review, IPR2014-01554, Paper 3 (PTAB Sept. 25, 2014)

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.