UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX CORPORATION,
Petitioner

v.

APPLICATIONS IN INTERNET TIME LLC,
Patent Owner

Case IPR2015-01750
US Patent No. 8,484,111 B2

Case IPR2015-01751
Case IPR2015-01752
Patent 7,356,482 B2[1]

PATENT OWNER'S OPPOSITION TO MOTION FOR SANCTIONS

[1] The word-for-word identical paper is filed in each proceeding identified in the heading.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

I. Introduction

At the outset, one must wonder whether Petitioner's motion for sanctions is premature. No protective order has been entered. No motion to seal has been entered. Yet, Petitioner erroneously suggests that inadvertent disclosures rose to the level of sanctionable conduct. They do not.

Petitioner acted hastily to request leave to file a sanctions motion. Now, with a full description of the relevant facts, it is clear that no Board action is needed. The facts demonstrate that there was little, if any confidential information, that Patent Owner's inadvertent disclosure was incredibly limited, that Patent Owner has already taken sufficient remedial action, and Petitioner suffered no harm. In this light, Petitioner's proposed sanctions make no sense.

The primary considerations in making a determination on a motion for sanctions are "(i) whether a party has performed conduct that warrants sanctions; (ii) whether the moving party has suffered harm from that conduct; and (iii) whether the sanctions requested are proportionate to the harm suffered by the moving party." *Square, Inc. v. Think Computer Corp.*, CBM 2014-00159, Paper 48 at 2 (citing *Ecclesiastes 9:10-11-12, Inc. v. LMC Holding Co.*, 497 F.3d 1135, 1143 (10th Cir. 2007)). Petitioner's motion fails on all three points. This brief

addresses the three *Square* requirements in reverse order because this highlights why the motion should be denied.

II. Petitioner's proposed sanctions are not needed and are not proportionate.

Here, all of Patent Owner's conduct was inadvertent and, once discovered, was admitted and has been corrected. Because Petitioner has suffered no harm, any sanction is disproportionate.

A. Petitioner's request for additional declarations is unnecessary.

The Board already entered an Order (Paper 23) requiring declarations from two individuals "regarding the specific extent of Petitioner's confidential information to which they were provided access." The declarants unequivocally confirmed that they saw *only* a draft of the Patent Owner's Preliminary Response ("POPR"). (Ex. 1040, ¶¶ 4-9[2]; Ex. 1041, ¶¶ 4-7; Ex. 2027, p. 2, ¶ 1). As directed by the Board, had either individual received access to any other confidential information, one or both would have so declared (Ex. 2027, p. 1, ¶ 1). Likewise, Patent Owner unequivocally confirmed to Petitioner that for all "information identified by Petitioner as confidential, the same information appears in the POPR as filed." (Ex. 2027, p. 2, ¶ 2).

[2] One declarant separately confirms that he saw a .pdf "timeline".) Ex. 1040, ¶ 4.

DOCKET ALARM

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.