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

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

PATENT OWNER'S OPPOSITION TO

PETITIONER'S MOTION TO STAY

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[1] This paper addresses issues common to all three cases. As required by the Board's May 5, 2020 order in each, the word-for-word identical paper is filed in each proceeding identified in the heading. Paper 116 at 3. Paper and exhibit numbers used herein are from IPR2015-01750.

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I. INTRODUCTION

Patent Owner Applications in Internet Time, LLC hereby opposes the motion for stay by Petitioner RPX Corporation. The Board should deny RPX's motion, and should instead promptly terminate these proceedings as necessitated by due process.

II. IPRS SHOULD BE SPEEDY, SO THE BURDEN FOR A STAY IS HIGH

"37 C.F.R. § 42.1(b) provides that the rules 'shall be construed to secure the just, *speedy*, and inexpensive resolution of *every proceeding*.'" *Mercedes-Benz USA, LLC v. Velocity Patent, LLC*, Case No. IPR2015-00290, Paper 9, p. 3 (January 21, 2015) (emphasis in original). Thus, a stay of an IPR proceeding generally is undesirable because it lengthens pendency. *See* 37 CFR § 42.5(c)(1) ("Any modification of times will take any applicable statutory pendency goal into account."). In light of this "need for speed," the Board's Standard Operating Procedure 9 ("SOP 9") explains, "The Board has established a goal to issue decisions on remanded cases within six months of the Board's receipt of the Federal Circuit's mandate." SOP 9, p. 1. In particular, a stay for an indefinite period affects the applicable statutory pendency goals in a significant way. *Mercedes-Benz USA,* p. 4.

SOP 9 further states, "In all cases, absent good cause, proceedings on remand generally will not be stayed once the Federal Circuit has issued its mandate, even when a party has petitioned the Supreme Court for a writ of certiorari." SOP 9, pp. 16-17. This recognizes that the grant of a petition for writ of certiorari is very rare.

The Board should not enter a stay when there are issues that would not be "directly impacted" by upper court proceedings. *SAS Institute, Inc. v, ComplementSoft, LLC*, Case IPR2013-00226, Paper 48, p. 3 (December 15, 2016) (cited in SOP 9).

The Board has explained: "First, speculation and conjecture do not support a stay of proceeding. . . Second, a stay only would obviate an obstacle for Petitioner, to the sole detriment of Patent Owner. . . Third, Petitioner does not adequately explain why its Petition in this proceeding would be of value to Petitioner." *Mercedes-Benz USA*, p. 4. The Board also should consider the impact of a stay on a copending infringement action. *Samsung Electronics Co., Ltd. v. STC.UNM*, Case IPR2020-00009, Paper 6, p. 4 (December 23, 2019).

III. RPX HAS NOT MET THE STANDARD FOR A STAY

RPX today would have the Board stay these cases for an indeterminate time on speculative grounds. This is not good cause.

RPX's arguments amount to "speculation and conjecture." *Mercedes-Benz USA, LLC*, p. 4. First, RPX speculates about whether the Federal Circuit will even consider its highly unusual motion. Ex. 1103 at 1 ("recalling the mandate and vacating a previous decision are unusual steps"). Second, RPX speculates that if the Federal Circuit considers its motion, the Federal Circuit will grant its request for extraordinary relief. Indeed, RPX cites scant authority supporting its position. Third, RPX speculates that, even if the Federal Circuit considers its motion, and the Federal

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