

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX Corporation,
Petitioner

v.

Applications In Internet Time LLC,
Patent Owner.

IPR2015-01750
Patent 8,484,111 B2

IPR2015-01751
IPR2015-01752
Patent 7,356,482 B2¹

**PATENT OWNER'S RESPONSE
TO PETITIONER'S REQUEST FOR REHEARING
OF FINAL DECISION ON REMAND TERMINATING INSTITUTION**

¹ This paper addresses issues common to all three cases. 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.

TABLE OF CONTENTS

I.	The Panel Change Did Not Violate Due Process	1
A.	RPX Has No Property or Liberty Interest at Stake in These Cases	1
B.	The Board’s Procedure Complied with Due Process Requirements	3
II.	The Board’s Discretionary Denial of Review Is Procedurally Proper	7

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Am. Mfrs. Mut. Ins. Co. v. Sullivan</i> , 526 U.S. 40 (1999).....	1
<i>Arthrex, Inc. v. Smith & Nephew, Inc.</i> , 941 F.3d 1320 (Fed. Cir. 2019)	2
<i>Cuozzo Speed Techs., LLC v. Lee</i> , 136 S. Ct. 2131 (2016).....	3
<i>Dell Inc. v. Acceleron, LLC</i> , 884 F.3d 1364 (Fed. Cir. 2018)	6
<i>GEA Process Eng’g, Inc. v. Steuben Foods, Inc.</i> , IPR2014-0041, Paper 135 (Dec. 23, 2014)	4
<i>Kerry v. Din</i> , 576 U.S. 86 (2015).....	2
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976).....	5
<i>Moles v. Regents of Univ. of California</i> , 654 P.2d 740 (Cal. 1982)	4
<i>Morrissey v. Brewer</i> , 408 U.S. 471 (1972).....	5
<i>Withrow v. Larkin</i> , 421 U.S. 35 (1975).....	7
Statutes	
35 U.S.C. § 316(b)	6

Other Authorities

37 C.F.R. § 42.16
37 C.F.R. § 42.23(b)5

Pursuant to Board authorization by email dated October 16, 2020, Patent Owner Applications in Internet Time, LLC (“AIT”) submits this response to Petitioner RPX Corporation’s (“RPX’s”) Request for Rehearing (“Req.”) addressing RPX’s procedural arguments regarding due process and discretionary denial (Req. at 1–3, 15).

RPX’s brief fails to state the legal standard or cite any controlling precedent supporting its due process argument. The lack of analysis causes RPX to miss two basic points: first, constitutional due process protections do not apply where, as here, RPX’s liberty or property rights are not at stake; second, even if they did, they would not require the exceptional remedies that RPX requests. Likewise, the Board’s discretionary denial analysis was procedurally proper and correct on the merits.

I. THE PANEL CHANGE DID NOT VIOLATE RPX’S DUE PROCESS RIGHTS

A. RPX Has No Property or Liberty Interest at Stake in These Cases

Initially, RPX fails to establish the most basic requirement of due process, namely, a protected interest that would be affected by the outcome of these proceedings. “The first inquiry in every due process challenge is whether the plaintiff has been deprived of a protected interest in ‘property’ or ‘liberty.’ Only after finding the deprivation of a protected interest do we look to see if the ... procedures comport with due process.” *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 59 (1999) (internal citations omitted). And “no process is due if one is not

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.