

1 UNITED STATES PATENT AND TRADEMARK OFFICE  
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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4 APPLE, INC.,  
Petitioner,

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vs.

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VOIP-PAL.COM, INC.,  
Patent Owner

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CASE: IPR2016-01198  
PATENT: 9,179,005 B2

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10 and

11 CASE: IPR2016-01201  
PATENT: 8,542,815 B2

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14 TELEPHONIC HEARING BEFORE THE  
ADMINISTRATIVE PATENT JUDGES:

15

JOSIAH C. COCKS  
JENNIFER MEYER CHAGNON  
JOHN A. HUDALLA

17

18 DECEMBER 19TH, 2017

19

HELD AT

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ERISE IP

21

7015 College Boulevard  
Suite 700

22

Overland Park, Kansas 66211

23

24

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1 A P P E A R A N C E S

2

For the Petitioner:

3

Adam P. Seitz  
Eric Buresh  
ERISE IP  
7015 College Boulevard  
Suite 700  
Overland Park, Kansas 66211  
(913)777-5600  
adam.seitz@eriseip.com  
eric.buresh@eriseipcom

4

5

6

7

8

9

10 Appearing telephonically for the  
Patent Owner:

11

Kevin N. Malek  
Malek Moss, PLLC  
340 Madison Avenue  
New York, New York, 10173  
(212)812-1491  
kevin.malek@malekmoss.com

12

13

14

15

16

17

18

19

Mary Lynn Cushing  
Missouri CCR #1077  
Alaris Litigation Services  
1608 Locust Street  
Kansas City, Missouri 64108  
(816) 221-1160  
1-800-280-3376

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21

22

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ALARIS LITIGATION SERVICES

1 JUDGE COCKS: Why don't we go ahead  
2 and start off and give us a little bit of background.

3 MR. SEITZ: Yes, Your Honor. As my  
4 e-mail noted, we're seeking permission to file a  
5 motion for sanctions or in the alternative for  
6 entirely new proceedings. The basis of our motion  
7 relates to six different letters from an individual  
8 by the name of Dr. Thomas Sawyer, one of Voip-Pal's  
9 largest shareholder, former CEO, former Chairman of  
10 the Board.

11 On May 1 Dr. Sawyer began what we  
12 would later find out to be a very extensive letter  
13 campaign, sending letters directly to the board and  
14 to the individual panels involved with these two  
15 proceedings. It started with a May 1 letter, at  
16 least that's the first letter we're aware of, which  
17 was sent to the Chief Judge and to our original panel  
18 at that time, Judges Margolies, Benoit and Pettigrew.  
19 Dr. Sawyer did not copy Apple on that letter.  
20 Voip-Pal did not send Apple a copy of that letter and  
21 the board did not enter that letter into the record  
22 or give Apple any chance to respond. The only reason  
23 we knew about that letter is a copy was sent to the  
24 District Court in Nevada, where the clerk entered it  
25 into the record in the litigation there. No actions

1 were taken by Apple or the board with respect to that  
2 letter. We didn't take any action in response to  
3 that letter because we had no reason to believe that  
4 it had any impact. The board did not take any formal  
5 actions placing any findings on the record regarding  
6 that letter, and no notice or record of a panel  
7 change was made in response to that letter.

8 In early June Apple first learned of  
9 the panel change during a hearing on a motion for  
10 Voip-Pal's sur-reply. Again, at that time no  
11 explanation was given for the panel change. After  
12 that first letter we became aware much, much later of  
13 letters 2 through 5 from Dr. Sawyer. A June 21  
14 letter, a June 11 letter, which also cc'd this panel,  
15 a July 27 letter and an August 31 letter, which cc'd  
16 this panel. As I noted Apple and its counsel were  
17 unaware of letters 2 through 5 entirely. Dr. Sawyer  
18 did not send them to Apple, Voip-Pal did not send  
19 them to Apple and the board did not place them on the  
20 record or give Apple a chance to respond to those  
21 letters. Each of those letters requested a variation  
22 on the same thing, sanctions in the form of a  
23 reversal of the institution decision or judgment in  
24 Voip-Pal's favor and dismissal or denial of any  
25 pending petitions against Voip-Pal.

1                   The final letter was sent on October  
2   23 by Dr. Sawyer. That letter also cc'd the current  
3   panel. We again learned of this letter only because  
4   it was entered at the District Court as a copy of a  
5   letter that was received by the clerk. Dr. Sawyer  
6   and Voip-Pal did not copy Apple on that letter and  
7   the board did not enter that letter into the record  
8   and Apple was not given a chance to respond to that  
9   letter. This letter again ratcheted up the threats  
10  threatening criminal liability to the board, again,  
11  requested reversal of the institution decision and  
12  dismissal of the pending petitions. This letter,  
13  however, was key. In this letter, the October 23  
14  letter, Dr. Sawyer made clear that he, over the past  
15  several months, has participated in a series of  
16  meetings and consultations with attorneys for  
17  Voip-Pal. He admitted that he continued to serve as  
18  an advisor for Voip-Pal. He admitted that the  
19  perceptions of Voip-Pal and its attorneys were what  
20  he was writing about. He admitted the shared  
21  perception of the attorneys was being put forth in  
22  his letter, and finally he admitted in the October 23  
23  letter that the attorneys for Voip-Pal shared or  
24  provided him with the legal sections that formed the  
25  basis of his October 23 letter. It was clear at that

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