

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

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4 APPLE, INC.,
Petitioner,

5

vs.

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VOIP-PAL.COM, INC.,
Patent Owner

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

9

10 and

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

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18 DECEMBER 19TH, 2017

19 HELD AT

20 ERISE IP
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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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