## UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner

v.

FINTIV, INC.,

Patent Owner

Case No.: IPR2020-00019 U.S. Patent No. 8,843,125

Title: SYSTEM AND METHOD FOR MANAGING MOBILE WALLET AND ITS RELATED CREDENTIALS

PATENT OWNER'S REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. §§ 42.71(b) and (d)



## TABLE OF CONTENTS

			Page
I.	INT	RODUCTION	1
II.	STATEMENT OF RELIEF REQUESTED		2
III.	FACTUAL BACKGROUND		2
IV.	APPLICABLE LAW		
	A.	Standard of Review	4
V.	RATIONALE FOR REHEARING		4
	A.	The Board Abused its Discretion when it Granted Apple's Request for Leave to File the IPR Supplement Without Requiring Apple to File a Motion	4
	В.	The Board's Decision to Hold a Merit Hearing Regarding Apple's Request to Supplement Overlooked and Violated the Administrative Procedures Act and Deprived Fintiv of Due Process	6
	C.	The Board Overlooked Apple's Failure to Satisfy the Requirements that Information Could Not Have Been Obtained Earlier or that the Filing is in the Interest of Justice to be Permitted to Supplement	
	D.	The Board Misapprehended Patent Owner's Need for the Full Three Months Provided by 37 C.F.R. §§ 42.107(b) and 42.207(b) to Respond to Apple IPR	9
VI	CONCLUSION		11



## **TABLE OF AUTHORITIES**

	Page(s)
Cases	
Abbott Labs. v. Cordis Corp., 710 F.3d 1318 (Fed. Cir. 2013)	6
Dell Inc. v. Acceleron, LLC, 818 F.3d 1293 (Fed. Cir. 2016)	7
Fintiv, Inc. v. Apple Inc., Case No. 6:18-CV-372-ADA (W.D. Tex.)	2
Motor Vehicle Mfs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 103 S.Ct. 2856, 77 L.Ed.2d 443 (1983)	10
SAS Inst., Inc. v. ComplementSoft, LLC., 825 F.3d 1341 (Fed. Cir. 2016), rev'd and remanded sub nom. SAS Inst., Inc. v. Iancu, 138 S. Ct. 1348, 200 L. Ed. 2d 695 (2018)	6
Statutes	
5 U.S.C. § 554(b)(3)	6, 7
5 U.S.C. § 554(c)	6
5 U.S.C. § 556(d)	6
Administrative Procedures Act	passim
Other Authorities	
37 C.F.R. § 42.71(b)	1, 2
37 C.F.R. § 42.71 (c)	4
37 C.F.R. § 42.71 (d)	1, 2, 4
37 C.F.R. § 42.100(b)	8
37 C F R 8 42 107(b)	0



37 C.F.R. § 42.207(b)	9
37 C.F.R. § 42.123	5, 8
37 C.F.R. § 42.123(c)	1, 4, 5
37 C.F.R. § 42.223(c)	1 5



## **EXHIBIT LIST**

Patent Owner's Exhibit No.	Description
2001	Declaration of John W. Downing in Support of Patent Owner's Request for Rehearing
2002	Email dated 11-20-19 from Travis Jensen to counsel for Fintiv re seeking leave to file Markman order
2003	Email dated 11-22-19 from Travis Jensen to the Board requesting a conference call
2004	Email dated 12-3-19 from Travis Jensen to John Downing re Apple intending to rely on Section II.B.6 of the July 2019 Trial Practice Guide Update
2005	Email dated 12-3-19 from Travis Jensen to the Board confirming parties met and conferred
2006	July 2019 Trial Practice Guide



# DOCKET

# 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.

