

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAP AMERICA, INC.,
Petitioner,
v.
LAKSHMI ARUNACHALAM,
Patent Owner.

Case IPR2014-00413
Case IPR2014-00414
Patent 8,346,894 B2¹

Per curiam

ORDER EXPUNGING UNAUTHORIZED FILINGS
AND IMPOSING SANCTIONS
Conduct of the Proceeding
37C.F.R. § 42.5

¹ This Order addresses issues that are identical in related cases. Therefore, we exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in any subsequent papers.

Filing to Be Expunged

On November 24, 2014, Lakshmi Arunachalam (“Patent Owner”) filed a paper styled Patent Owner’s Reply To Petitioner’s Objections To Patent Owner’s Evidence. IPR2014-00413, Papers 20 and 21(same paper filed twice); IPR2014-00414, Paper 19 (“the First Subject Papers”). The Initial Conference Summary in each of these proceedings reminded Patent Owner that objections are not to be filed with the Board without prior authorization. The First Subject Papers also request that the Board take certain actions and constitute a motion. 37 C.F.R. 42.20(a). A motion will not be entered by the Board without prior authorization. 37 C.F.R. 42.20(b). Patent Owner did not seek or obtain authorization to file the First Subject Papers.

Prior to entry of this Order, we determined that the First Subject Papers contained sensitive information and unsubstantiated allegations concerning Judge Brian McNamara, who is administering the proceeding. Because Patent Owner had not sought authorization or guidance concerning filing the First Subject Papers, we could have expunged them immediately. Instead, we *sua sponte* designated the First Subject Papers as accessible to the Board and the parties only, while we considered action on Patent Owner’s unauthorized filings.

On November 26, 2014, the First Subject Papers were released publicly on an Internet web site referring to Patent Owner by name. The web site includes a picture of Judge McNamara superimposed on a background of simulated targets with a skull and crossbones in a yellow triangle and a link to the First Subject Papers. The “who is” database for the linked site hosting the First Subject Papers lists identification information, at least some of which appears to be fabricated. Attempts to intimidate Judge McNamara, or any of the other persons identified on the Web site, are unacceptable.

On December 3, 2014, Patent Owner filed still another unauthorized paper entitled Patent Owner's Notice To PTAB About Denial of Due Process To Patent Owner and Motion To Recuse PTAB Judges ("Second Subject Papers"). IPR2014-00413, Paper 22 ; IPR2014-00414, Paper 20. The Second Subject Papers do not mention the Internet publication of the First Subject Papers or the attempts to intimidate Judge McNamara. Although the Second Subject Papers complain about our designating the First Subject Papers as "Board and Parties Only," they do not explain how that designation denies Patent Owner due process. Instead, Patent Owner repeats bald, unsubstantiated allegations against Judge McNamara, alleges without any basis that Judge McNamara is biased toward Petitioner, states that Patent Owner is reporting Judge McNamara to various ethics committees, seeks Judge McNamara's recusal and requests that all previous decisions negative to Patent Owner be reversed. Patent Owner does not request reversal or reconsideration of a decision favorable to Patent Owner in another proceeding over which Judge McNamara presided.

As indicated in the First Subject Papers, Patent Owner's allegations stem from a theory that an official's ownership of a *de minimis* interest in an entity not before the official but opposed to the Patent Owner in another proceeding, or ownership of any share of a publicly available, diversified mutual fund, not controlled by that official, presents a conflict when the fund holds shares in any party opposing the Patent Owner in any proceeding. This is not the law and Patent Owner has not demonstrated any conflict of interest by any judge in the proceedings involving Patent Owner. Patent Owner's unauthorized motions are DENIED.

Patent Owner failed to request authorization to file either the First Subject Papers or the Second Subject Papers. Therefore, the First Subject Papers and the Second Subject Papers will be expunged.

Sanctions

We repeatedly have admonished Patent Owner to refrain from unauthorized filings. On September 15, 2014, alleging financial impropriety by the judges of the District Court for the District of Delaware, without first obtaining authorization, Patent Owner filed a paper titled Patent Owner Challenging Validity and Impartiality of Proceedings Due To Fraud Upon The Office and Request For Fraud Investigation By The Inspector General (“Request for Relief”). IPR2013-00194, Paper 63; IPR2013-00195, Paper 56; CBM2013-00013, Paper 57. The following day, on September 16, 2014, during an initial conference in IPR2014-00413 and IPR2014-00414, we reminded Patent Owner of the requirement to seek authorization before filing motions with the Board. We reiterated this admonition in our Initial Conference Summary in those proceedings. *SAP America, Inc., v. Lakshmi Arunachalam* Case IPR2014-00413, Initial Conference Summary and Order to File Transcript (Paper 17, 5–6) (PTAB Sep. 17, 2014). Notwithstanding our prior admonitions, on September 18, 2014, in IPR2013-00194, IPR2013-00195, and CBM2013-00013, Patent Owner filed yet another unauthorized paper styled Patent Owner’s Response to Petitioner’s Opposition. IPR2013-00194, Paper 65; IPR2013-00195, Paper 58; CBM2013-00013, Paper 59. In denying Patent Owner’s motion, we advised Patent Owner: “Further unauthorized motions, requests for relief, or other papers will not be considered and sanctions may be imposed.” *SAP America, Inc., v. Lakshmi Arunachalam*, Order Denying Patent Owner’s Request to Suspend Proceedings and Refer Matters to the Inspector General, Case IPR2013-00194 (Paper 66, 5) (PTAB, Sep. 18, 2014), Case

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IPR2014-00195 (Paper 59, 5) (PTAB, Sep. 18, 2014), Case CBM2013-00013
(Paper 60, 5) (PTAB, Sep. 18, 2014).

Patent Owner's filing of the First Subject Papers on November 24, 2014, is Patent Owner's third offense. Patent Owner's filing of the Second Subject Papers on December 3, 2014 constitutes a fourth offense. In view of Patent Owner's refusal to conform to our rules, despite our repeated admonitions, we impose the following sanctions: (1) Patent Owner's access to upload documents to the Patent Review Processing System (PRPS) for all past, present, and future proceedings is terminated immediately; (2) Patent Owner is prohibited from accessing, or attempting to access, PRPS to upload documents under a different name or through any real or corporate person, party, entity, agent, or successor in interest, other than qualified lead counsel; (3) any qualified lead counsel who, in any proceeding before the Board, wishes to represent a party opposing a challenge to a patent in which the Patent Owner is an inventor, or in which Patent Owner holds an ownership interest, either directly or through an ownership interest in a business entity of any kind, or in which Patent Owner has any right or ability to advise a party concerning any action to be taken in the proceeding, must first contact the Board to obtain permission to use PRPS to upload filings in that proceeding; (4) Patent Owner may file *paper* documents by mailing them to the address provided for in the rules – however, before Patent Owner submits any *paper* filings in any proceeding, Patent Owner must first obtain authorization of the Board by emailing Trials@uspto.gov or calling the Board to request a conference call; (5) any unauthorized filings will be expunged in their entirety. Patent Owner is reminded to serve all papers filed by mail on opposing counsel and to copy opposing counsel on any correspondence with the Board. Patent Owner must comply with all other rules and procedures in proceedings affected by this Order. Notwithstanding the

above, Patent Owner may view, but not upload, documents on PRPS using the public access facility.

Any violation of these sanctions or further action in disregard of the Board's rules and orders by Patent Owner may result in entry of an adverse judgment.

Finally, we note that in recent filings Patent Owner has been using the caption "SAP America v. Pi-Net International, Inc." Pi-Net International, Inc. originally was identified as the real party in interest. The most recent Mandatory Notice in this proceeding identifies Lakshmi Arunachalam, who has been appearing *pro se*, as the only real party in interest. If Pi-Net International, Inc. is again a real party in interest, Patent Owner should contact the Board for authorization to file an updated Mandatory Notice, as required by 37 C.F.R. § 42.8(b)(1). Pi-Net International must be represented by counsel. 37 C.F.R. § 1.31. Patent Owner is directed to use the proper caption in all future papers.

In consideration of the above, it is

ORDERED that all motions or other requests by Patent Owner in the First Subject Papers and Second Subject Papers are DENIED;

ORDERED that the First Subject Papers and the Second Subject Papers are EXPUNGED;

FURTHER ORDERED that Patent Owner's access to upload documents to the Patent Review Processing System (PRPS) for all proceedings is terminated;

FURTHER ORDERED that Patent Owner is prohibited from accessing, or attempting to access, PRPS to upload documents under a different name or thorough any real or corporate person, party, entity, agent, or successor in interest, other than qualified lead counsel;

FURTHER ORDERED that any qualified lead counsel who, in any proceeding before the Board, wishes to represent a party opposing a challenge to a

patent in which the Patent Owner is an inventor, or in which Patent Owner holds an ownership interest, either directly or through an ownership interest in a business entity of any kind, or in which the Patent Owner has any right or ability to advise a party concerning actions to be taken in the proceeding must first contact the Board to obtain permission to use PRPS to upload filings in that proceeding;

FURTHER ORDERED that Patent Owner may file paper documents by mail, only after first obtaining authorization of the Board;

FURTHER ORDERED that Patent Owner is required to comply with all other rules and procedures applicable to proceedings affected by this Order;

FURTHER ORDERED that any unauthorized filings by Patent Owner will be expunged in their entirety upon receipt; and

FURTHER ORDERED that Patent Owner is to use the proper caption in all future papers the Board authorizes Patent Owner to file.

PETITIONER:

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