

SAP America, Inc. v. Lakshmi Arunachalam: Denying Motion to Stay Petition IPR2013-00194, IPR2013-00195, CBM2013-00013

Article By:

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Takeaway: Because the Board employs a different standard for claim construction of an unexpired patent than the one employed in a district court, any alleged impropriety in the district court's claim construction ruling is irrelevant to proceedings before the Board.

In its [Order](#), the Board denied Patent Owner's request to stay the Subject Proceedings. On September 15, 2014, Patent Owner filed a paper entitled Patent Owner Challenging Validity and Impartiality of Proceedings Due to Fraud Upon the Office and Request for Fraud Investigation by the Inspector General in the Subject Proceedings. Patent Owner alleged that in the accompanying district court case, the judges failed to disclose financial conflicts of interest, resulting in a tainted Markman Order that the Board relied upon in the Subject Proceedings. Therefore, Patent Owner requested that the Subject Proceedings be stayed pending resolution of the alleged financial conflicts of interest by the members of the district court.

The Board stated that Patent Owner's allegations that the Board relied upon the Markman Order of the district court are incorrect because they do not recognize the difference between the claim construction standard applied in the Subject Proceedings and that applied in the district court. Therefore, the Markman Order was not relied upon by the Board and there is no basis to suspend the Subject Proceedings.

Regarding Patent Owner's request that the alleged fraud allegations be referred to the Office of the Inspector General, the Board stated that this is not the appropriate forum for Patent Owner to make that request. Even if it were the correct forum, the request only contains Patent Owner's allegations and does not provide any evidence to support the allegations. Patent Owner incorporated by reference "[a]ll filings in Case Nos. 1:13-cv-355-RGA and 1:12-cv-282-SLR between the dates of August 25, 2014 and September 16, 2014," but the Board stated that incorporation by reference is not permitted by the rules and it would not be appropriate for the Board to review filings concerning collateral matters that are unrelated to the Subject Proceedings.

Lastly, the Board noted that Patent Owner's request was filed without prior authorization from the Board, and reminded Patent Owner of the requirement to seek authorization prior to filing any papers that are not provided for under the rules.

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Papers 66, 59, 60: Order Denying Patent Owner's Request to Suspend Proceedings and Refer Matters to the Inspector General

Dated: September 18, 2014

Patents: 8,108,492 B2; 5,987,500; 8,037,158 B2

Before: Karl D. Easthom, William V. Saindon, and Brian J. McNamara

Written by: McNamara

Related Proceedings: Case Nos. 1:12-cv-355-RGA and 1:12-cv-282-SLR (D. Del.)

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