

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CHICAGO MERCANTILE EXCHANGE, INC.,  
Petitioner,

v.

5th MARKET, INC.,  
Patent Owner.

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Case CBM2014-00114  
Patent 7,024,387 B1

Before KALYAN K. DESHPANDE, MICHAEL R. ZECHER, and  
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

A conference call in the above proceeding was held on April 14, 2014, between respective counsel for Petitioner and Patent Owner, and Judges Deshpande, Zecher, and Braden. Petitioner initiated the conference call to request authorization to file a motion to stay a co-pending *inter partes* reexamination involving U.S. Patent No. 7,024,387 B1 (“the ’387 patent”).

Petitioner began the conference call by indicating that the ’387 patent is the subject of a co-pending *inter partes* reexamination styled U.S. Patent Application No. 95/002,032 (“the co-pending reexamination”). Petitioner indicated that it was the Third Party Requester in the co-pending reexamination. Upon inquiry from the Board regarding the current status of the co-pending reexamination, Petitioner explained that an Examiner’s Answer has been mailed and the parties are in the process of preparing rebuttal briefs. Based on those representations, Petitioner requested authorization to file a motion to stay the co-pending reexamination. Patent Owner indicated that it will oppose this motion.

We explained that it is premature to stay the co-pending reexamination at such an early stage of this proceeding because we have yet to determine whether to institute a covered business method patent review of the ’387 patent. We further explained that, if we eventually institute a covered business method patent review of the ’387 patent, Petitioner may renew its request for authorization to file a motion to stay the co-pending reexamination.

ORDER

Accordingly, it is ORDERED that Petitioner's request for authorization to file a motion to stay the co-pending reexamination is DENIED. However, if we institute a covered business method patent review of the '387 patent, Petitioner may renew its request for authorization to file a motion to stay the co-pending reexamination.

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