

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WESTLAKE SERVICES, LLC,  
Petitioner,

v.

CREDIT ACCEPTANCE CORP.,  
Patent Owner.

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Case CBM2014-00176  
Patent 6,950,807

Before JUSTIN T. ARBES, DAVID C. MCKONE, and  
GREGG I. ANDERSON, *Administrative Patent Judges*.

MCKONE, *Administrative Patent Judge*.

ORDER  
CONDUCT OF THE PROCEEDINGS  
Patent Owner's Request for Stay  
*37 C.F.R. § 42.222(a)*

On October 23, 2014, Credit Acceptance Corp. (“Patent Owner”) requested a conference to discuss a stay of this proceeding. On October 27, 2014, the Board conducted a conference with the parties. John Van Loben Sels and Ellen Wang participated on behalf of Westlake Services, LLC (“Petitioner”). P. Anthony Sammi and James Y. Pak participated on behalf of Patent Owner. Judges Arbes, McKone, and Anderson also participated.

In *Westlake Services LLC v. Credit Acceptance Corp.*, CBM2014-00008 (“the ’008 Review”), Petitioner filed a Petition requesting a covered business method patent review of U.S. Patent No. 6,950,807 (“the ’807 patent”), the same patent at issue in this review. On March 31, 2014, we instituted a trial as to claims 1–9, 13, and 34–42 of the ’807 patent on a single ground pursuant to 35 U.S.C. § 101. *See* the ’008 Review, Paper 30. An oral hearing in the ’008 review is scheduled for November 5, 2014. *See* the ’008 Review, Paper 58. A final decision is expected prior to March 31, 2015.

In this matter (CBM2014-00176, “the ’176 Review”), Petitioner challenges claims 1–42 of the ’807 patent under 35 U.S.C. §§ 101 and 112. Petitioner filed its Petition in the ’176 Review on August 15, 2014, and Patent Owner’s Preliminary Response is due on November 20, 2014. Between the filing of the Petition in the ’008 Review and the filing of the Petition in the ’176 Review, the Supreme Court issued opinions in *Alice Corp. v. CLS Bank International*, 134 S. Ct. 2347 (2014), and *Nautilus, Inc. v. Biosig Instruments, Inc.*, 134 S. Ct. 2120 (2014).

Patent Owner requests a stay of the deadline for its Preliminary Response in the ’176 Review until approximately one month after our final decision in the ’008 Review. Assuming that we enter that decision in

March 2015, that would constitute a stay of approximately six months. Patent Owner contends that the issues in the two reviews overlap substantially. For example, according to Patent Owner, Petitioner is likely to present arguments regarding the *Alice* decision during the hearing for the '008 Review, an issue that Patent Owner contends is presented in the '176 Review. Patent Owner argues that a stay would promote efficiency and allow Patent Owner to provide a more focused response to the Petition.

Petitioner disputes that the overlap between the two Petitions is substantial and argues that any efficiency gains do not justify a six-month delay.

We agree with Petitioner. Our rules and practices are formulated to expedite proceedings. Thus, 37 C.F.R. § 42.1(b) provides that the rules “shall be construed to secure the just, speedy, and inexpensive resolution of every proceeding.” And 37 C.F.R. § 42.207(b) sets a three-month time limit for filing the preliminary response by the Patent Owner. In determining whether to waive this rule, we consider the impact on the objectives set forth in Section 42.1(b). *See* 37 C.F.R. § 42.5(b); *cf. Shaw Indus. Group, Inc. v. Automated Creel Sys., Inc.*, IPR2013-00584, Paper 20 (PTAB Dec. 31, 2013), at 4–5 (requiring a showing of special circumstances to waive one-month time limit for joinder under 37 C.F.R. § 42.122(b)).

Although there undoubtedly will be some overlap between the two matters, as both challenge claims of the '807 patent under Section 101, there are several issues unique to the '176 Review for which delay would be unjustified. For example, the '176 Review challenges claims 10–12 and 14–33, claims for which we denied institution in the '008 Review. Likewise, the '176 Review challenges claims 1–42 under Section 112, paragraphs 1

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and 2, challenges that are not at issue in the '008 Review. On the other hand, a six-month delay in the case would undermine our objectives to secure the just, speedy, and inexpensive resolution of the '176 Review. Patent Owner has not persuaded us that any efficiency gains it might achieve warrant such delay.

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner's request for authorization to file a motion for a stay of the deadline to file a Preliminary Response is *denied*.

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