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**PTAB Provides Guidance for Meeting  
Burden to Show Written Description  
for Substitute Claim**

**John P. Iwanicki**

***Banner & Witcoff PTAB Highlights***

**September 24, 2014**

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# PTAB HIGHLIGHTS

New developments in post-issuance proceedings

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## PTAB Provides Guidance for Meeting Burden to Show Written Description for Substitute Claim

By [John P. Iwanicki](#)

September 24, 2014 – In a Final Written Decision finding the patentee’s claim 1 unpatentable, the PTAB denied a motion to add a substitute claim that added hundreds of words to challenged claim 1. The PTAB held that the patentee failed to explain the relevance of supporting citations to the patent, or how the substitute claim was an “integrated whole” within the context of the patent.

[IPR2013-00322 – Respironics, Inc. v. ZOLL Medical Corporation \(Paper 46\)](#)

The patentee, Zoll, filed a motion to amend seeking to add a substitute claim for challenged claim 1. The substitute claim added hundreds of words, more than tripling its length. The motion provided a listing of string citations to the patent by column and line number. These were alleged to provide written description support for the amended language. The motion lacked an explanation of the relevance of the citations and was unsupported by an expert declaration.

The PTAB explained that a substitute claim will only be added to an *inter partes* review if the patentee meets a burden to show adequate written description in the original application and any “benefit applications” (applications to which benefit is claimed). In denying the motion to amend, the PTAB held that “Zoll’s string citations amount to little more than an invitation to us (and to Respironics, and to the public) to peruse the cited evidence and piece together a coherent argument for them. This we will not do; it is the province of advocacy.” The PTAB noted the contrast between the extensive amendments and the lack of any explanation of the relevance of the string citations. The PTAB stated “[s]o extensive a modification of the claim requires a more detailed showing of how each limitation of the proposed claim not only is disclosed in the original and benefit applications, but also is disclosed in combination with all of the other

claim limitations. See *Novozymes A/S v. DuPont Nutrition Biosciences APS*, 723 F.3d 1336, 1349 (Fed. Cir. 2013) (claim is considered as an “integrated whole” when assessing written description).

Zoll attempted to cure the deficiencies of its motion with a reply that included both a claim chart identifying citation support for the proposed claim limitations and an expert declaration. But, the PTAB criticized the reply as “too little, too late” on substantive and procedural grounds.

The PTAB determined that neither the expert declaration nor the claim chart explained the relevance of the citations to the proposed claim limitations or how the citations, which were “dispersed throughout the specification and figures, demonstrate possession of the claimed subject matter as an ‘integrated whole.’” The PTAB also noted that the proper role of a reply brief is to “refute arguments and evidence advanced by the opposing party.” In contrast, the PTAB viewed Zoll’s reply brief as an attempt to improve its original motion by presenting additional evidence in support of written description. The PTAB criticized Zoll for not explaining why the expert declaration could not have been provided with the motion or why the late evidence should even be considered. The PTAB also accused Zoll of attempting to circumvent the reply brief page limit by not discussing within the reply itself the evidence in the expert declaration and claim chart.

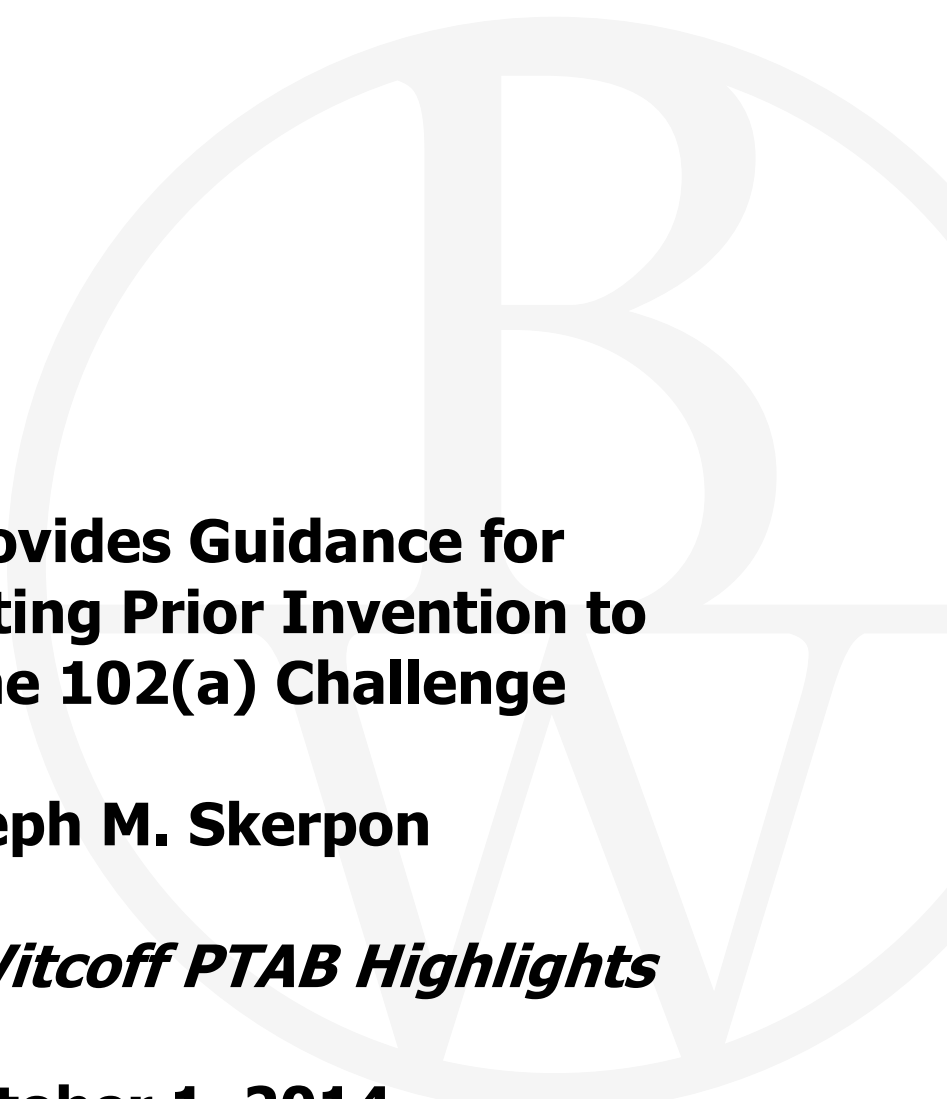
In denying the motion to amend, the PTAB did not conclude that the proposed substitute claim lacked adequate written description. Instead, the PTAB decided that Zoll did not meet its burden of proving adequate written description for the proposed substitute claim based on the record before it. The PTAB did not reach the issue of whether the proposed substitute claim was patentable over the prior art.

*The Leahy-Smith America Invents Act established new patent post-issuance proceedings, including the inter partes review, post grant review and transitional program for covered business method patents, that offer a less costly, streamlined alternative to district court litigation. With the U.S. Patent and Trademark Office’s Patent Trial and Appeal Board conducting a large and increasing number of these proceedings, and with the law developing rapidly, Banner & Witcoff will offer weekly summaries of the board’s significant decisions and subsequent appeals at the U.S. Court of Appeals for the Federal Circuit.*



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**PTAB Provides Guidance for  
Demonstrating Prior Invention to  
Overcome 102(a) Challenge**

**Joseph M. Skerpon**

***Banner & Witcoff PTAB Highlights***

**October 1, 2014**

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# PTAB HIGHLIGHTS

New developments in post-issuance proceedings

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## PTAB Provides Guidance for Demonstrating Prior Invention to Overcome 102(a) Challenge

By Joseph M. Skerpon

October 1, 2014 — In a Final Written Decision finding the patent owner’s claims unpatentable, the PTAB provided guidance on establishing prior invention to overcome a challenge under 35 U.S.C. 102(a). The PTAB also commented concerning the grounds in an original petition seeking an *inter partes* review and attempting to “reserve rights” in a petition.

[IPR2013-00364 – Handi Quilter, Inc. and Tacony Corporation v. Bernina International AG \(Paper 39\)](#)

In *Handi Quilter*, patent owner unsuccessfully attempted to show prior invention in response to a 35 U.S.C. 102(a) challenge. In its Final Decision (Paper 39), the PTAB outlined the two ways of demonstrating prior invention over a published reference citable only under 35 U.S.C. 102(a): (1) proving a reduction to practice before the publication of the reference or (2) demonstrating a prior conception coupled with reasonable diligence to a reduction to practice (actual or constructive) after the publication of the reference. Here, the patent owner attempted to prove prior conception with diligence, but failed to demonstrate a complete conception.

The patent owner was handcuffed to a large extent by the death of its sole inventor less than a year before the filing of the petition. Fortunately for the patent owner, the inventor and his attorney were previously aware of the existence of the key reference (Watabe) and had done an investigation and collected relevant documents before the inventor’s death. Unfortunately, neither had the foresight to document the investigation to establish a sufficient record, according to the PTAB. The record lacked the reliability and credibility essential to a satisfactory showing of prior invention.

The PTAB's decision is instructive not only for its critique of the nature of the evidentiary record, but also for highlighting the need to keep all of the elements of the claimed invention in focus when attempting to prove prior invention. Even if the evidentiary record did not have the reliability and credibility shortcomings caused by the untimely death of the inventor, the patent owner's attempt to show prior conception still would not have been successful because the patent owner overlooked one key element of the claim.

The invention pertained to a method of stitching together two or more fabric layers of a fabric stack as done in quilting. According to the invention, a motion detector monitored the movement of the fabric stack. Signals generated by the motion detector were input to a control circuit, which then synchronized automatically the delivery of stitch strokes with the movement of the fabric stack. The inventor had drawn a flow schematic (basic algorithm) of the method and this served as the key item of evidence. Arguably, the drawing illustrated the use of a motion detector to monitor the movement of the fabric stack and suggested the use of that information to perform "a comparison . . . to a 'set stitch length' to decide whether to stitch." However, the document failed to illustrate specifically how one would use that information to control the sewing machines' stitch head responsive to the movement of the fabric stack. Furthermore, "Patent Owner [did] not present[ ] evidence that mere ordinary skill in the art would have been required to reduce to practice the invention, as ultimately claimed, which requires controlling the stitch head or needle arm so that it actuates in response to detected movement."

The PTAB explained that to show conception, one must demonstrate that the inventor had formed a mental outline of the complete invention so that only ordinary skill would be necessary to reduce the invention to practice, citing *Burroughs Welcome Co. v. Barr Labs., Inc.*, 40 F.3d 1223, 1228 (Fed. Cir. 1994). Here, the patent owner failed to account for the control element of the claim in its proofs. Since the algorithm assumed the control feature without a specific illustration of any suitable circuit, the patent owner's failure to demonstrate that a person of ordinary skill in the art would be able to supply a suitable circuit was fatal to its case.

In rendering its decision, the PTAB also provided comments concerning the grounds detailed in an original petition seeking an IPR. The cited Watabe reference was potentially relevant under both 35 U.S.C. 102(a) and 102(b) and the petitioner sought to preserve in its petition its options by "reserving the right" to assert the Watabe reference also under 102(b). The PTAB noted that the petition must both identify the specific grounds for the patentability challenge and must demonstrate how the challenged claims are unpatentable under every challenged ground. It is not possible to defer that showing, so the PTAB rejected this attempted reservation of rights. As a corollary, the PTAB also reaffirmed an earlier holding that it does not presume that a patent is entitled under 35 U.S.C. 120 to the benefit of an earlier filing date of a priority application that does not share the same disclosure as the patent.

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**To Stay or Not to Stay**

**Katie L. Becker**

***Banner & Witcoff PTAB Highlights***

**October 10, 2014**

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# PTAB HIGHLIGHTS

New developments in post-issuance proceedings

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## To Stay or Not to Stay...

By Katie L. Becker

October 10, 2014 — The Federal Circuit recently decided its second case<sup>1</sup> on the issue of staying a district court patent infringement litigation pending Covered Business Method (CBM) review. In *Benefit Funding Systems v. Advance America Cash*, Case No. 2014-1122 (Fed Cir. Sept. 25, 2014), the Federal Circuit affirmed the district court's order staying the litigation.

[Case No. 2014-1122 – Benefit Funding Systems v. Advance America Cash \(Fed Cir. Sept. 25, 2014\)](#)

The technology at issue relates to a “system and method for enabling beneficiaries of retirement benefits to convert future benefits into current resources to meet current financial and other needs and objectives.” Roughly 10 months after Benefit Funding Systems LLC and Retirement Capital Access Management Company LLC filed its complaint in the District of Delaware for patent infringement against Advance America Cash Advance Centers, Inc., Regions Financial Corporation, CNU Online Holdings, and U.S. Bancorp, U.S. Bancorp filed a petition with the PTAB for CBM review. All defendants then filed motions to stay the litigation pending review, which the court subsequently denied.

Following denial of the motions to stay by the district court, the PTAB instituted CBM review on the sole basis of subject matter eligibility under 35 U.S.C. § 101. The defendants renewed their motions to stay, which the district court granted. The patent owner then filed an interlocutory appeal. The patent owner's argument on appeal rests on the ground that the PTAB is not authorized to conduct CBM review based on § 101 grounds and thus the district court would not

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<sup>1</sup> The first Federal Circuit case on this issue was *VirtualAgility, Inc. v. Salesforce.com, Inc. et al.*, Case No. 2014-1232 (Fed. Cir. July 10, 2014). The Court reversed the district court's order denying a stay pending the outcome of CBM review.

be bound by the results of the review<sup>2</sup>. The Federal Circuit disagreed that such an argument would be a proper basis for denying a stay.

In its decision authored by Chief Judge Prost, the Court concludes that the district court properly considered and analyzed the four factors set forth in AIA § 18(b)(1) to determine whether a stay is appropriate: (A) whether a stay, or the denial thereof, will simplify the issues in question and streamline the trial; (B) whether discovery is complete and whether a trial date has been set; (C) whether a stay, or the denial thereof, would unduly prejudice the nonmoving party or present a clear tactical advantage for the moving party; and (D) whether a stay, or the denial thereof, will reduce the burden of litigation on the parties and on the court. The Court went on to find that that “the argument that §101 cannot support CBM review is a collateral attack similar to ones that we have recently held impermissible” and further concluded that “[t]he stay determination is not the time or the place to review the PTAB’s decisions to institute a CBM proceeding.” *Citing* 2014 WL 3360606 at \*5. The Court similarly found that challenging the PTAB’s authority to conduct the CBM review in disputing an order staying litigation is also an impermissible collateral attack.

Lastly, the Court found that in the context of this case, the patent owner provided no basis for challenging the district court’s conclusion with respect to the second and third factors and found that “where the only real argument against a stay concerns the authority of the PTAB to conduct the CBM review, those circumstances are sufficient for the district court to conclude that the first and fourth factors favor staying the case.”

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<sup>2</sup> The patent owner also raised this argument at the district court.



**Goodbye Patent Arbitration?**

**Charles W. Shifley**

***Corporate Counsel***

**October 13, 2014**

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Page printed from: [Corporate Counsel](#)

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From the Experts

## Goodbye Patent Arbitration?

Charles W. Shifley, Corporate Counsel

October 13, 2014

Patent dispute resolution has been trending into arbitration, while arbitration has been looking like litigation. But now patent reviews through the U.S. Patent and Trademark Office (PTO) offer the fast, cheap proceedings that arbitration is supposed to provide—and they just may kill the old way of arbitrating those disputes.

According to the American Arbitration Association, in its rules for patent disputes, “a growing number of intellectual property disputes are arbitrated [by the AAA] each year.” Several milestone events encouraged this trend. President Ronald Reagan signed legislation that became 35 U.S.C. 294 in 1983, authorizing federal courts to enforce agreements to arbitrate, whether made in advance or at the time of any patent disputes. A National Patent Board, now merged with the AAA, was organized by corporate lawyers in 1998. The board offered a six-month schedule, one-day hearings with briefs, a pretrial conference, oral argument and a decision by patent lawyers. The Federal Arbitration Act, 9 U.S.C. Sections 1-14, enacted in 2000, made arbitration awards of all types, including patent, subject to only limited review by courts. In 2004 one author wrote that patent arbitration had become a highly utilized alternative to patent litigation.

In 2006 the AAA rules for patent disputes took effect. The AAA asserted that arbitration has the advantages of relative speed and economy, privacy, reduced likelihood of damage to ongoing business relationships, ease of enforcement in the international context and the ability of the parties to customize the process and select arbitrators who are experts familiar with the subject matter of the dispute.

Those rules, however, ran contrary to speed and economy. After selection of arbitrators, a hearing is held with a resulting scheduling order. The order is to require initial disclosures of asserted patent claims, initial exchanges of (a) preliminary infringement contentions of literal and equivalent infringement; (b) preliminary invalidity contentions of anticipation and obviousness; (c) charts of accusations; and (d) several groups of documents. These include conception, on sale and prior art documents, followed by a patent claim construction process and hearing, identification of experts and exchange of experts reports, discovery deadlines, a protocol for introducing sworn statements and deposition testimony, a prehearing conference, a hearing and, if desired, a reasoned award.

The procedures are much like those required by the local patent rules common in patent-heavy federal courts. They front-load cases with high expenses by requiring thoroughly prepared initial exchanges at the risk of being blocked from introducing evidence not in the disclosures, and by taking early positions with which experts may later disagree.

But here's the good news. The America Invents Act of 2011 has given the "Pea-Tab"—the Patent Trial and Appeal Board (PTAB) of the PTO—quasi-trial-like, and rocket-docket-like, jurisdiction over issued patents. The PTAB cannot decide issues of infringement, but it can judge that patents and their claims are unpatentable in judgments the PTO will respect by canceling both patents and claims. As a result, since late 2012, 1,100 petitions for PTAB reviews of patents have been filed. In the first half of 2014, filings increased 125 percent over the total filings in 2013.

PTAB proceedings like this come in three flavors: inter partes reviews (IPRs), postgrant reviews (PGRs) and covered business method reviews (CBMs). All three are intended to begin and end in about 12 months. They are implemented after a challenger files a petition, which is unlike a federal court complaint and detailed in specifics similar to a patent case summary judgment motion. The patent owner may or may not respond. The PTAB will next decide whether to institute the proceeding based on the petition, by determining, for an IPR, whether there is a reasonable likelihood of success, and for a PGR or CBM, whether success is more likely than not. A scheduling order will enter, and the "trial" will have begun.

If the patent owner chooses, he or she responds to the petition, and/or moves to amend the patent, typically within three months. Direct testimony is by affidavit. If the patent owner wants to take cross-examination depositions, this is the period for them. An equal petitioner's period for similar depositions follows. Wide-ranging discovery is blocked. More activities and due dates follow closely. Once these are complete, the quasi-trial concludes, typically, with an oral argument. Judgment soon follows, if the dispute has not been settled, and confirms claims or concludes they are not patentable.

Compared to arbitration, PTAB proceedings certainly have benefits for patent challengers. Perhaps foremost, the PTAB decisions to date have held many patent claims unpatentable. There is no baby-splitting or decision-dodging on patent validity with the PTAB. Plus, canceled claims cannot be infringed. While petition filing fees run into the low tens of thousands of dollars, in PTAB proceedings, no arbitrators are charging hourly fees comparable to those of well-paid lawyers for case management, discovery and other interim dispute resolutions—not to mention claim construction deliberation and hearings; live-witness days-long trials; case decision making and "rational decision" writing.

The parties' counsel are also not engaged in a wide-ranging set of disputes, motions and paper filings—all made possible, and in many instances required, by either the AAA patent rules or arbitrators who like them. Also, PTAB judges are typically well-trained, experienced patent lawyers who are also "precedent-attuned" and in their primes. Furthermore, patent owners cannot assert that invalidity must be proven by clear and convincing evidence, or that their patents must be presumed to be valid. And in the event of losses, design-arounds of patent claims may be made much easier by binding statements of patent owners about the limits of their inventions during the proceedings.

For patent owners, there are also benefits. PTAB judges follow PTO approaches to the patent law. For example, PTAB judges often give little respect to extravagant arguments

about what was known in the fields of the inventions when not proven by cold, hard evidence. Challengers who fail in PTAB proceedings also do not get second bites at patent validity; they are blocked, in most situations.

So, what will the future hold for the resolution of patent disputes? Arbitration agreements are made in both forward-looking, blanket forms by parties in long-term relationships, and in “one-off” forms by parties to flared-up disputes. Parties in both types may see arbitration agreements, however, as forcing them to stay away from the best forum for their disputes—the PTAB. That is because parties may not resort to PTAB proceedings when federal law forces them to resolve patent disputes exclusively in arbitration.

The upshot of the rise of PTAB proceedings may be, then, that in the near future the arbitration of patent disputes withers away and dies. Arbitration agreements that might have been made will go unmade, or will exempt patent disputes from arbitration. PTAB proceedings may take over the role of arbitration for those who want nonlitigation resolutions of their patent disputes.

*Charles W. Shifley is a principal in Banner & Witcoff Ltd.'s Chicago office. He has served as lead and cocounsel in numerous successful IP trials and appeals for Fortune 100 (and other) companies nationwide.*



**Don't Try to Barnstorm Proof of  
Printed Publication**

**H. Wayne Porter**

***Banner & Witcoff PTAB Highlights***

**October 16, 2014**



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New developments in post-issuance proceedings

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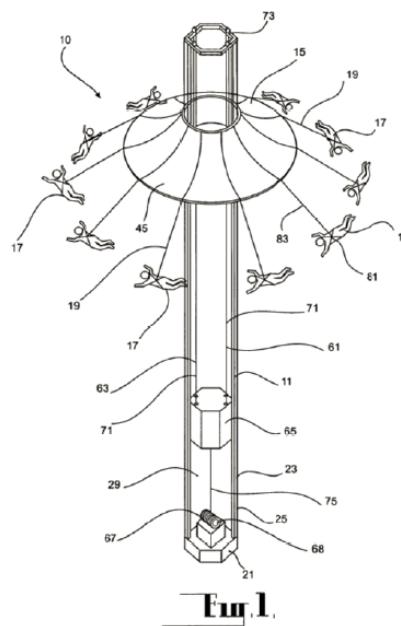
## Don't Try to Barnstorm Proof of Printed Publication

By [H. Wayne Porter](#)

October 16, 2014 — The PTAB recently denied institution of *inter partes* review based on a petitioner's failure to prove that a document was indeed a printed publication qualifying as prior art to the patent at issue.

[IPR2014-00671 – A.R.M., Inc. v. Cottingham Agencies Ltd. \(Paper 10\)](#)

The patent in question is titled “Amusement Ride.” In a decision entered October 3, 2014, the PTAB denied a petition to institute *inter partes* review. The decision is notable for two things. First, the decision includes an impressive drawing depicting an embodiment of a ride which, as summarized by the PTAB, involves “conveyance of riders through the air in a manner simulating flight at an elevation sufficiently high to produce a thrilling sensation”:

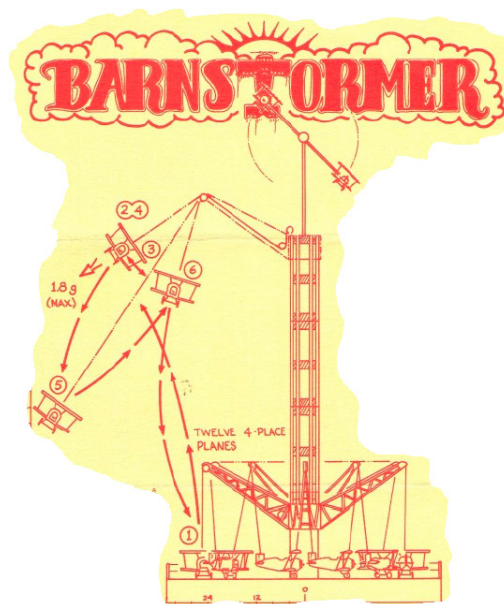


Second, the decision denied institution of trial because the petitioner failed to prove that a document qualified as prior art to the patent at issue. The petitioner challenged claims of the patent as obvious over various combinations of references that included a one-page, undated document depicting a ride known as the “Barnstormer.” The petitioner also submitted a declaration and argued that the declaration dated the Barnstormer document before the filing date of the patent at issue.

The PTAB noted that, in fact, the declaration did not identify any date for the Barnstormer document, and that no date appeared on the face of the document. The PTAB also noted that the petitioner provided virtually no argument or evidence in support of a conclusion that the Barnstormer document was a printed publication available as prior art to the patent at issue.

As indicated by the PTAB, the key inquiry was whether the Barnstormer document was made “sufficiently accessible to the public interested in the art” before the relevant date, and that “[a] given reference is ‘publicly accessible’ upon a satisfactory showing that such document has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art exercising reasonable diligence, can locate it.” Although the PTAB acknowledged that the petitioner provided evidence that the Barnstormer *ride* was operated and available to the public before the relevant date, the PTAB found that the petitioner offered no evidence of a date when the Barnstormer *document* was a publication, and no evidence that the Barnstormer document was disseminated or otherwise made available such that relevant persons could locate it.

This decision highlights the importance of a petitioner satisfying its burden to prove a non-patent document is, in fact, a printed publication under 35 U.S.C. § 102. The decision also highlights one of the limitations of the *inter partes* review procedure. In particular, an *inter partes* review can only be instituted on the basis of prior art consisting of patents or printed publications. Other types of prior art such as prior public use is not enough. As can be seen by comparing an image from the Barnstormer document (below left), and an image from the declaration submitted by the petitioner (below right),



the public use prior art and the Barnstormer document appear to show the same thing, yet the Barnstormer document failed to constitute a printed publication, so the petition to institute an *inter partes* review trial was denied.

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**PTAB Post Office Decision Shows  
CBM Proceedings Not Limited to  
Finance Companies**

**Charles W. Shifley**

***Banner & Witcoff PTAB Highlights***

**October 24, 2014**

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# PTAB HIGHLIGHTS

New developments in post-issuance proceedings

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## PTAB Post Office Decision Shows CBM Proceedings Not Limited to Finance Companies

By [Charles W. Shifley](#)

October 24, 2014 — In Covered Business Method (CBM) proceedings at the PTAB, a financial service is not necessarily just a service that acts on financial information—at least not in a proceeding between the U.S. Post Office and a competitor called Return Mail.

Everyone knows the Post Office is struggling. The Internet is making Post Office mail a pejorative: “snail mail.” No surprise, mail volume is going straight down. Mailing DVDs, Netflix was recently the biggest mail customer of the postal system, but the Internet is rapidly bringing an end to their mail service. The Post Office lost \$2 billion in just the three months of April through June, 2014. Everyone knows what it means to “go postal.” And does anyone lack for a Post Office joke?

But surprising though it is, this embattled butt of jokes still providing a 19th century service is also a target for assertions of patent infringement. Equally surprising, it has the resources and will to battle back aggressively and help create odd law. The only segment of mail business at the Post Office that isn’t dropping is junk mail, a/k/a bulk mail. When that segment is targeted by a patent owner, the Post Office may have extra incentive to act.

### [CBM2014-00116 – United States Postal Service v. Return Mail, Inc. \(Paper 11\)](#)

In CBM 2014-00116, the entanglements and creative arguments the Post Office can bring to a patent situation are on display. The Post Office filed the petition for the proceeding, and is putting weight into taking down a patent owned by Return Mail. The Post Office asserted the patent is invalid in nine ways. The CBM proceeding, moreover, is not the only or the first battle in a seeming war between the Post Office and Return Mail. Currently, Return Mail is suing the Post Office for compensation for infringement in the Federal Court of Claims. The accused

service in that lawsuit is “OneCode Address Correction,” a free Post Office service that is good for senders of junk and bulk mail. Return Mail’s patent was also the subject of extensive previous PTO proceedings. The patent reissued, with all original claims canceled, and was re-examined too, at the request of the Post Office. The PTAB resolved to institute the CBM proceeding, in spite of past challenges to and changes in the patent.

Return Mail is in Alabama. It claims that it once employed 20 people, but now has 10, due to Post Office competition, and once attempted to work with and license the Post Office. [http://blog.al.com/businessnews/2011/03/birmingham\\_return\\_mail\\_inc\\_su.html](http://blog.al.com/businessnews/2011/03/birmingham_return_mail_inc_su.html)

The Return Mail patent is about handling mail that cannot be delivered. Return Mail started its business to take returned mail, search for new addresses to deliver it, and update databases of mail addresses for those who would buy this service. The patent claims a method in which envelopes have a code indicating whether the mail, if undelivered, will receive the effort to find a new address. The method of the patent is reading the code, finding a new address, and sending the new address to the sender, for any next mail to be sent. OneCode Address Correction works in a similar manner.

The central issue in CBM2014-00116, as might be guessed, is the application of the recent Supreme Court decision *Alice Corp. v. CLS Bank Int’l*. — it is the question of whether the Return Mail patent covers an invention that was even eligible to get patented.

Most worthy of attention is how the Post Office persuaded the PTAB to consider a patent on handling returned mail to be a fit for a CBM proceeding. As the PTAB opinion expressly says, a “‘covered business method patent’ is a patent that ‘claims a method or apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service’” – and that type of patent, *only*.

How is the handling of return mail a “financial product or service?” Says the Post Office, the patent includes subject matter that is financial in nature because it “provides a method for easing the administrative burdens of finance companies, mortgage companies, and credit card companies by making relaying updated mail address data more cost effective.” Says the PTAB, “we agree with USPS that” handling return mail for such companies “satisfies the ‘financial product or service’ component of the definition” of CBM patents.

It may be that the Post Office has to act strongly to protect its steady junk and bulk mail business, and thus had to create its argument ingenuously. It may matter to the PTAB agreement with the argument that Return Mail did “not dispute” that the patent subject matter “is financial in nature.” But a lesson of the institution of this CBM proceeding could surely be that the PTAB may not be limiting the definition of CBM patents to those patents that involve the actual manipulation of financial information.

By this example, a patent directed to activity as pedestrian and mundane as handling the mail is the “administration” of a “financial product or service” if the mundane activity is one in which financial companies engage — among the companies of possibly many other industries. As a result, owners of patents on subjects distant from acting on financial information should