

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**LIBERTY MUTUAL INSURANCE CO.**  
**Petitioner-Appellee**

**v.**

**PROGRESSIVE CASUALTY INSURANCE CO.**  
**Patent Owner-Appellant**

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**Case CBM2012-00010**  
**Patent 7,124,088**

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Before JAMESON LEE, JONI Y. CHANG, MICHAEL R. ZECHER,  
*Administrative Patent Judges.*

**PATENT OWNER PROGRESSIVE'S**  
**NOTICE OF APPEAL**

Director of the United States Patent and Trademark Office  
c/o Office of the General Counsel  
Madison Building East, 10B20  
600 Dulany Street  
Alexandria, VA 22314-5793

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Patent Owner, Progressive Casualty Insurance Co. (“Progressive”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision entered on February 24, 2014 (Paper 59) (the “Final Written Decision”), and from all underlying orders, decisions, rulings and opinions, including without limitation the Decision on Institution of Covered Business Method Review entered on February 25, 2013 (Paper 16) (the “Institution Decision”).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner Progressive further indicates that the issues on appeal include, but are not limited to, the following: (1) the Patent Trial and Appeal Board’s (“PTAB”) decision to institute a covered business method review under 37 C.F.R. § 42.208, including whether the PTAB’s decision exceeded its statutory authority under 35 U.S.C. § 326 through rulemaking, (2) the PTAB’s determination of unpatentability and cancellation of claims 1-46 of U.S. Patent No. 7,124,088 (the “’088 Patent”) under 35 U.S.C. § 103, including the PTAB’s determination and application of the knowledge and level of skill of a person of ordinary skill in the art, (3) the PTAB’s claim constructions, including that of “real-time” and “insurance policy parameter,”

among others, (4) the denial of Patent Owner Progressive's motion to exclude evidence, including the failure to exclude new evidence and arguments submitted by Petitioner for the first time in its Reply brief, as well as the determination to credit the testimony of Petitioner's witness over that of Patent Owner Progressive's witness, (5) the PTAB's determination that the '088 Patent is a covered business method patent and is not a technological invention, and (6) any finding or determination supporting or related to those issues, as well as all other issues decided adversely to Patent Owner Progressive in any orders, decisions, rulings and opinions.

Simultaneous with this submission, a copy of this Notice of Appeal is being filed with the Patent Trial and Appeal Board and the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

**BRINKS GILSON & LIONE**

April 21, 2014

By     /James A. Collins/      
James A. Collins (Reg. No. 43,557)  
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*Attorneys for Patent Owner  
Progressive Casualty Insurance, Co.*

**CERTIFICATE OF FILING**

I hereby certify that, in addition to being filed electronically through the Board's PRPS System, the original version of the foregoing, PATENT OWNER PROGRESSIVE'S NOTICE OF APPEAL, was filed on this 21st day of April, 2014, with the Director of the United States Patent and Trademark Office, by depositing with the United States Postal Service Express Mail (Label No. EV 950036705) in an envelope addressed to:

Director of the United States Patent and Trademark Office  
c/o Office of the General Counsel  
Madison Building East, 10B20  
600 Dulany Street  
Alexandria, VA 22314-5793

**CERTIFICATE OF FILING**

I hereby certify that a true and correct copy of the foregoing, PATENT OWNER PROGRESSIVE'S NOTICE OF APPEAL, was filed electronically on this 21st day of April, 2014, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit:

United States Court of Appeals for the Federal Circuit  
717 Madison Place, N.W., Suite 401  
Washington, DC 20005

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing, PATENT OWNER PROGRESSIVE'S NOTICE OF APPEAL, was served, in accordance

with the parties' electronic service agreement, on April 21, 2014 by electronic mail upon the following counsel for Petitioner Liberty Mutual Insurance Co.:

Steven.Baughman@ropesgray.com  
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Respectfully submitted,

**BRINKS GILSON & LIONE**

April 21, 2014

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