

## Fed. Circ. Affirms PTAB Upholding Of IV Processor Patent

By Jenna Ebersole

*Law360, Washington (February 8, 2016, 8:56 PM ET)* -- The Federal Circuit on Monday affirmed the validity of claims for a processor patent held by patent holding company Intellectual Ventures, letting stand a Patent Trial and Appeal Board decision that IBM had failed to show the claims were unpatentable.

The court upheld the PTAB's decision, issued in April, that rejected IBM Corp.'s inter partes review challenge to 11 claims for a patent for a coprocessor and host processor that execute two public key encryption algorithms with a shared arithmetic operation. The patent, No. 7,634,666, has been at the center of infringement claims.

The board had said it was "not persuaded that the petition presents sufficient evidence to support this late presented contention of obviousness."

"For the reasons given, we are not persuaded that petitioner has shown by a preponderance of the evidence that claims 1-11 of the '666 patent are unpatentable based on the challenges on which trial was instituted," the PTAB had concluded.

A representative for Intellectual Ventures declined to comment on the case late Monday and representatives for IBM did not immediately respond to a request for comment.

Last month, JPMorgan Chase & Co. asked a New York federal judge to quash an Intellectual Ventures infringement claim on the '666 patent, saying the purportedly infringing technology lacks the mathematical capabilities to intrude on IV's intellectual property.

During oral arguments before U.S. District Judge Alvin K. Hellerstein in Manhattan, an attorney for the lender argued that IV's infringement claims with respect to U.S. Patent Number 7,634,666 are misplaced, given that the technology at issue, IBM Cryptocards, don't contain the necessary capacity to perform calculations that would infringe the '666 patent.

Specifically, the cryptocards at issue lack a "sign inversion unit," which changes positive numbers to negative numbers and changes negative numbers to positive numbers, as required under claim four of the '666' patent, said Brent Ray of Kirkland & Ellis LLP.

Ray said JPMorgan's tech cannot take a negative input and translate it into a positive number. Instead, all inputs must be positive, he said. Holding up a computer chip that contains the allegedly infringing

tech, Ray said it is unchangeable.

But attorneys for IV argued that JPMorgan's cryptocards are capable of sign inversion, when performing so-called modular math, by which the cryptocards do change negative numbers into positive numbers.

IBM was represented before the PTAB by Kenneth R. Adamo and Eugene Goryunov of Kirkland & Ellis LLP.

Intellectual Ventures was represented at the Federal Circuit by Lori Gordon, Jonathan Strang and Byron Pickard of Sterne Kessler Goldstein & Fox.

The case was Intellectual Business Machines Corp. v. Intellectual Ventures II LLC, case number 2015-1837, before the U.S. Court of Appeals for the Federal Circuit.

— Additional reporting by Stewart Bishop and Kat Greene. Editing by Ben Guilfoy.

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