

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DeFi Education Fund
Petitioner

v.

True Return Systems, LLC
Patent Owner

Case IPR2023-01388
U.S. Patent No. 10,025,797

**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE TO ORDER
TO SHOW CAUSE**

Pursuant to the Board’s Order to Show Cause of January 25, 2024 (Paper 9), Petitioner DeFi Education Fund (“Petitioner”) provides the present Reply to Patent Owner’s Response of February 5, 2024 (Paper 11, “Response”).

Petitioner neither opposes Mr. David A. Boag representing Patent Owner, nor does Petitioner oppose Patent Owner’s request for an additional 30 days to designate back-up counsel. Petitioner does, however, feel compelled to briefly respond to Patent Owner’s continued allegations that it is receiving threats from Petitioner. *E.g.*, Response at 1. Contrary to the allegations in the Response, to the extent Mr. Jack Fonss is receiving threats, they are not coming from or being instigated in any way by Petitioner.

In particular, the Response cites to a purported exhibit EX3001¹ (Response at 1) in which inventor Mr. Fonss alleges Petitioner created non-fungible tokens

¹ Exhibit EX3001 in this proceeding was submitted by the Board and includes Patent Owner’s email seeking Director Review of the Institution Decision. Petitioner, however, believes Patent Owner’s reference to EX3001 in the Response is to a declaration submitted by Patent Owner with its untimely Request by Patent Owner for Director Review of the Decision Granting Institution of January 31, 2024 (Paper 10). Patent Owner submitted this declaration in violation of the rules for Director Review (*see Revised Interim Director Review Process* at E

(NFTs) depicting him and quotes tweets by a Petitioner in-house attorney and a board member of Petitioner. These NFTs, however, do not depict Mr. Fonss at all. Rather, they are merely examples of ubiquitous “patent troll” images used in the patent industry and more broadly throughout the media.

With regards to the tweets from Petitioner’s in-house counsel and board member, it is clear from even a quick review that they are nothing more than informational tweets describing the filing of the Petition in this proceeding (EX3001 at Exhibit 8) and expressing an intent to see the ‘797 Patent invalidated (*id.*), the intent of every petitioner who has ever filed a petition for *inter partes* or post grant review. The tweets never name Mr. Fonss.

Patent Owner’s other evidence of alleged threats (EX3001 at Exhibit 10) comes from a series of tweets² discussing a litigation involving Patent Owner in which Petitioner is not involved.

(<https://www.uspto.gov/patents/ptab/decisions/revised-interim-director-review-process> (last accessed 2/12/2024))) and has not made the declaration of record in this proceeding. Nevertheless, Petitioner refers to this declaration as “EX3001” for consistency with the Response.

² <https://twitter.com/DaimonLaw/status/1737833791857799580?s=20> (last accessed 2/12/2024).

In summary, if Mr. Fonss is experiencing threats, it is regrettable, but the insinuation they are coming from Petitioner is simply false. Indeed, any such alleged threats are unrelated to and outside the control of Petitioner. Furthermore, they are outside the scope of this proceeding. 35 U.S.C. § 311(b). Therefore, Petitioner respectfully requests that the Board give no weight to these allegations, particularly as they relate to Petitioner.

February 12, 2024

Respectfully submitted:

/Mark J. DeBoy/

Mark J. DeBoy, Reg. No. 66983

Counsel for Petitioner

CERTIFICATE OF SERVICE

I certify that the foregoing **PETITIONER'S REPLY TO PATENT
OWNER'S RESPONSE TO ORDER TO SHOW CAUSE** was electronically
served on February 12, 2024 to:

Mr. David A. Boag
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February 12, 2024

Respectfully submitted:
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